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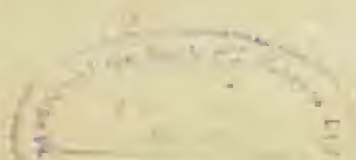
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LABOUR LAWS IN INDIA



EDITED BY

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PREFACE

In the forward march of India towards industrialisation her laws regulating industries and labour and safeguarding their respective interests are in the course of a rapid development. A handy but comprehensive book on the subject containing up-to-date labour laws is a real need of the day. This volume is intended to serve that need.

The book contains 34 Central Acts and 84 connected Rules, Regulations, etc., covering the field of labour laws in India. In compiling this book I have taken the sections and rules, etc., as they stood on 15-8-47, the day when two separate Dominions of India and Pakistan came into existence. Amendments made by subsequent Amending Acts, Adaptation Orders and Government Notifications have been pointed out and incorporated in the text in their proper places within square brackets and the altered portions together with references have been given in foot notes. Amendments and changes made during the course of printing of the book have been given in the Addenda in front of the volume.

Some of the Acts in their application to different States have been amended by different State Legislatures. It is very difficult to be sure about such fragmentary amendments as official publications of the Acts of many States are not readily available and it may be that some of them have been missed.

For rapid reference the Acts have been alphabetically arranged and the connected Rules, etc., have been given under each relevant Act.

Utmost care with great pains has been devoted to give up-to-date and accurate texts of the Acts and Rules for the convenience of the Judiciary, Lawyers, Industrial and Labour Organisations and persons interested in labour legislation. I shall deem my labour amply rewarded if they find the book useful.

August 1956

P. C. Sarkar.

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LABOUR LAWS

ADDENDA (1)

The Coal Mines (Conservation and Safety) Act, 1952.

S. 17 (P. 30) *For* foot note 3 under sec. 17, *read* the following, namely:—

^{“3} *For* such rules, *see* the Coal Mines (Conservation and Safety) Rules, 1954, published under Notification No. S.R.O. 3146, d/- 25-9-54, in Gazette of India, d/- 2-10-54, Pt. II-Sec. 3, at pp. 2345-2362.”

The Coal Mines Labour Welfare Fund Rules, 1949.

R. 9 (P. 43) (i) *For* item (b) *read* the following, namely:—

“(b) In respect of journey by rail Single first class fare plus an allowance for incidental expenses at a flat rate of 12 pies per mile, where first class accommodation is available. Where first class accommodation is not available on the particular train or railway line by which he travels, the member will have this option to travel in air-conditioned accommodation, by paying from his own pocket, the difference between the fares for the air-conditioned and first class accommodation and where he does not exercise this option, he will be entitled to single fare for the highest class of accommodation, excluding air-conditioned accommodation, actually provided on the particular train or railway line plus an allowance for incidental expenses at such rate as may be fixed by the Central Government for their class I officers from time to time.”

(ii) At the end of the rule *read* the following Notes, namely:—

“NOTE 1.—For the purpose of this Rule the term ‘member’ includes a member of the Sub-Committee who is not a member of the Advisory Committee or of the Housing Board.

NOTE 2.—Members may in their discretion travel by air.”

(*Vide* Notification No. S.R.O. 1252, d/- 7.6.55, pub. in Gazette of India, d/- 11.6.55, Pt. II-Sec. 3, p. 1042).

B. 30 (P. 50) *After* sub-rule (3), *read* the following sub-rule, namely:—

"(4) A refund of duty of excise of the nature specified in sub-rule (2) may, subject to the like conditions, be also allowed in respect of the duty of excise collected on coal or coke during the course of its transport from colliery pitheads to railway heads, where the duty of excise is again collected on the coal or coke sent from the rail heads to the consuming centres."

(*Vide* Notification No. S.R.O. 224, d/- 13.1.55, pub. in Gazette of India, d/- 22.1.55, Pt. II-S. 3, p. 229).

B. 31A (P. 51) (i) In sub-rule (1), *omit* the existing second proviso and *after* the first proviso *read* the following further proviso, namely:—

"Provided further that in the case of any dispensary in respect of which the Commissioner is satisfied that it has been brought up to the prescribed standard in all respects except buildings and equipments, the grant-in-aid may be paid, if the owner or agent of the colliery undertakes to bring the buildings and equipments also to the prescribed standard within such period not exceeding five years as may be specified by the Commissioner in this behalf.

If after payment of the first year's grant-in-aid it is found at the time of any subsequent inspection that the owner or agent has not in the opinion of the Commissioner made sufficient progress towards improvement in regard to the equipments and buildings, the payment of grant-in-aid for the subsequent years may be withheld."

(*Vide* Notification, No. S.R.O. 1475, d/- 2.7.55, pub. in Gazette of India, d/- 9.7.55, Pt. II-Sec. 3, p. 1294).

(ii) In sub-rule (2)—

(a) *for* the words "The owner of each colliery shall maintain" *read* "There shall be maintained"; and

(b) in the proviso, *for* the words "where several collieries are owned by one owner, the owner may maintain a common main dispensary for all such collieries" *read* "a common main dispensary may be maintained for several collieries."

(*Vide* Notification No. S.R.O. 2803, d/- 24.8.54, pub. in Gazette of India, d/- 28.8.54, Pt. II-Sec. 3, p. 2085).

The Coal Mines Bonus Scheme, 1948.

Par. 8 (P. 94) *For* the proviso to sub-para (1), the following proviso was substituted by Notification No. S.R.O. 721, d/- 14.3.56 (*Vide* Gazette of India, d/- 24.3.56, Pt. II-Sec. 3, p. 481), namely:—

"Provided that where any illegal strike is called off within forty-eight hours of its commencement, the amount of bonus that would have fallen due to the employees but for such participation shall be paid by the employers within a period of two months from the date on which the quarter relating to the forfeited bonus ends, for credit to the Reserve Account of the Coal Mines Provident Fund established under the Coal

Mines Provident Fund Scheme published with the notification of the Government of India in the Ministry of Labour No. P.F. 15(5)/48, dated the 11th December, 1948:

Provided further that where an application has been made under sub-paragraph (2) of paragraph 8, the forfeited bonus shall be deposited within a period of thirty days from the date of decision on the application, if the decision is that the strike was illegal, or, where an appeal is filed against that decision under sub-paragraph (4) of that paragraph, within ten days of the dismissal of the appeal."

The Coal Mines Provident Fund Scheme, 1948.

Par. 2 (P. 105) In cl. (d) for "Executive Committee" substitute "Commissioner", and omit cl. (f). (*Vide* Notification No. S.R.O. 1340, d/- 1.6.56, pub. in Gazette of India, d/- 9.6.56, Pt. II, Sec. 3, pp. 1001-1003.)

Par. 3 (Pp. 106 & 107) Omit "and Executive Committee" from the heading and also omit sub-para (2); renumber sub-paras (3) and (4) as sub-paras (2) and (3); in sub-paras (2) and (3) as so renumbered omit "or of the Committee". (*Vide ibid.*)

Par. 4 (Pp. 107 & 108) Omit sub-paras (3) and (4); renumber sub-para (5) as sub-para (3); and in sub-para (3) as so renumbered omit "or member of the Committee" and "or re-election as the case may be." (*Vide ibid.*)

Par. 5 (P. 108) Omit "or member of the Committee". (*Vide ibid.*)

Par. 6 (P. 108) Omit "or member of the Committee" appearing after "A trustee", "or member" appearing after "to be such trustee", "or the Committee" appearing after "meetings of the Board", and "or the Committee as the case may be" appearing after "Chairman of the Board"; and in the proviso omit "or membership as the case may be". (*Vide ibid.*)

Par. 7 (P. 108) Omit "The trustee so removed shall cease to be a member of the Committee if he is on the Committee." (*Vide ibid.*)

Par. 8 (P. 108) In cl. (a) of sub-para (1), omit "and if he is also a member of the Committee the Chairman of the Committee". (*Vide ibid.*)

Par. 9 (Pp. 108 & 109) In sub-para (2), omit "or elected", "or members of the Committee" and "or election as the case may be", omit the proviso to sub-para (2); in sub-para (3), omit "or member of the Committee" and also "or elected" wherever occurring. (*Vide ibid.*)

Par. 11 (P. 109) Omit "or the Committee" appearing after "Decisions of the Board", and "or Committee, as the case may be" appearing after "member of the Board". (*Vide ibid.*)

Par. 12 (P. 109) For para 12, substitute the following (*vide ibid.*), namely:—

"12. *Delegation of powers by the Board.*—(1) The Board may direct that all or any of the powers and functions which may be exer-

cised or performed by it, may, in relation to such matters and subject to such conditions, if any, as may be specified by it also be exercised or performed by the Chairman of the Board or the Commissioner or any other Officer subordinate to him.

(2) All delegations heretofore made by the Board to any of the authorities mentioned in sub-paragraph (1) above, shall in so far as they could be made under that sub-paragraph if it had then been in force be deemed to have been made under this paragraph."

Par. 13 (P. 109) *Omit* sub-para (3). (*Vide ibid.*)

Par. 14 (P. 109) *Omit* "and Executive Committee" appearing in the heading, "and the Committee" appearing after "the Board", and "or the Committee as the case may be" appearing after "Chairman of the Board". (*Vide ibid.*)

Par. 15 (P. 109) *Omit* "or of the Committee" and "or, as the case may be, to every member of the Committee". (*Vide ibid.*)

Par. 16 (P. 110) *For* "(3) and (4)" *substitute* "(2) and (3)"; and *omit* "or of the Committee as the case may be", "or of the Committee", "or the members of the Committee" and "or member". (*Vide ibid.*)

Par. 17 (P. 110) *Omit* sub-para (2), renumber sub-para (3) as sub-para (2); and in sub-para (2) as so renumbered, *omit* "or members of the Committee" and "or members". (*Vide ibid.*)

Par. 18 (P. 110) In sub-para (1), *omit* "or of the Committee" and "or members of the Committee". (*Vide ibid.*)

Par. 19 (P. 110) In sub-para (1), *omit* "or of the Committee" and "or members, as the case may be". (*Vide ibid.*)

Par. 20 (P. 111) *Omit* "etc." appearing after "Board" in the heading, "or the Committee" wherever occurring, "or member" and "or election". (*Vide ibid.*)

Par. 21 (P. 111) In sub-para (2), *omit* "and/or the Committee". (*Vide ibid.*)

Par. 23 (P. 111) In sub-para (1), *omit* "and the Committee". (*Vide ibid.*)

Par. 26 (P. 113) *After* sub-para. (2), the following new sub-para. was inserted by Notification No. S.R.O. 1472, d/- 2.7.55 (*vide* Gazette of India, d/- 9.7.55, Pt. II-Sec. 3, pp. 1291-1292) as subsequently amended by Notification No. S.R.O. 999, d/- 20.4.56 (*vide* Gazette of India, d/- 28.4.56, Pt. II-Sec. 3, p. 612):—

"(3) Where a subscriber to a recognised Provident Fund having elected to continue to subscribe to that Fund under sub-paragraphs (1) and (2) makes an application to the Commissioner within such period as the Commissioner may specify in this behalf for becoming a member of the Provident Fund established under this Scheme, the Commissioner may, if he is so satisfied, permit the subscriber to make a fresh election, and where the subscriber is so permitted, the employer shall require the

subscriber to make a fresh election in Form C and if he elects to join the Fund, he shall be deemed to become a member of the Fund and shall be entitled to contribute to it from the date of such re-election. The election certificate together with a return, in duplicate, in Form H and the declaration of the subscriber in Form A shall be forwarded to the Commissioner by the employer within a fortnight of the date of the said certificate. The said return in Form H shall be marked 'special' and shall be deemed to relate to the quarter in which the certificate in Form C is signed, irrespective of whether the subscriber qualifies or does not qualify for bonus in that quarter."

Par. 27 (P. 114) In para. 27 the following amendments were made by Notification No. S.R.O. 1472, d/- 2.7.55, namely:—

(i) in Table I—

(a) for the heading "Monthly rated employees", substitute the heading "Monthly rated employees whose rate of basic wages exceeds thirty rupees per month";

(b) for the words "Basic wages for the month", in the first column, substitute the words "Total of monthly basic wages, dearness allowance and cash equivalents of concessional rations at the rate of fifteen rupees per month";

(c) for the words "basic wages" occurring in the second, third and the fourth columns against the entry "Over Rs. 240", substitute the words "the total of monthly basic wages, dearness allowance and cash equivalents of concessional rations at the rate of fifteen rupees per month";

(ii) in Table II—

(a) for the heading "Other employees", substitute the heading "Employees other than monthly rated";

(b) for the words "Basic wages for the week" in the heading of the first column, substitute the words "Basic wages for any week ending on or before the 17th July, 1955";

(iii) after Table II, insert the following Table, namely:—

"TABLE III

(Rates of contribution for any wage period ending on or after the 18th July, 1955).

Category of Employees	Rate of Provident Fund Contribution	
	Member's contribution per rupee of basic wage for the week	Employer's contribution per rupee of basic wage for the week
	Annas	Annas
(a) Weekly paid employees—		
(i) In the States of Bihar and West Bengal ..	1	3
(ii) In all other States ..	2½	2½

Member's contribution per rupee of basic wage for the month.	Employer's contribu- tion per rupee of basic wage for the month.
Annas	Annas

(b) Monthly paid employees whose basic rate of pay does not exceed Rs. 30 per mensem—

(i) In the States of Bihar and West Bengal

3

3

(ii) In all other States

2½

2½

Par. 28 (P. 115) For the words "in the first instance," read "whether he has collected the member's share of contribution or not". (*Vide* Notification No. S.R.O. 3306, d/- 22.10.54, pub. in Gazette of India, d/- 30.10.54, Pt. II-S. 3, p. 2558).

Par. 29 (P.115) After "member's contribution paid", read "or payable", and for "recoverable" read "realisable". (*Vide* Notification No. S.R.O. 3306, d/- 22.10.54)

Par. 33 (Pp. 116-117) (a) For the heading "Mode of Payment of Contribution—Affixing of stamps", read the following heading, namely:—

"Mode of payment of contribution in respect of any period of currency commencing prior to the 1st of April, 1953—affixing of stamps";

(b) in sub-para. (1), after "Contribution payable under this Scheme", read "in respect of any period of currency commencing prior to the 1st of April, 1953";

(c) in sub-para. (2), after "contribution in respect of", read "such period of currency for";

(d) in sub-para. (3), for "In respect of the period", read "In respect of any currency period commencing before the 1st April, 1953 or part thereof." (*Vide* Notification No. S.R.O. 3306, d/- 22.10.54.)

(e) to sub-para. (3) read the following proviso (*vide* Notification No. S.R.O. 1398, d/- 6.6.56, pub. in Gazette of India, d/- 16.6.56, Pt. II-Sec. 3, p. 1042), namely:—

"Provided that the Commissioner may direct that any payment under this paragraph shall be made in one or the other modes specified in clauses (i) to (iv) of sub-paragraph (3) of paragraph 33A of this Scheme."

Par. 33A (P. 117) After para. 33, the following new para. was inserted by Notification No. S.R.O. 3306, d/- 22.10.54, as subsequently amended by Notification No. S.R.O. 1852, d/- 20.8.55 (*vide* Gazette of India, d/- 27. 8. 55, Pt. II-Sec. 3, p. 1681):—

"33A. Mode of payment of contribution for any period of currency commencing on or after the 1st of April, 1953—payment in cash:—

(1) Every contribution payable under this Scheme during a period of currency commencing at any time on or after the 1st April, 1953, shall be paid monthly in respect of each colliery separately on or before the date specified in sub-paragraph (2). The contributions shall be calculated on the basis of wages payable for all wage periods ending in a month.

(2) The employer shall pay to the fund both the employer's contribution as well as the member's contribution together with an amount calculated at the rates mentioned in paragraph 33B of this Scheme to defray the cost of administration of the Fund on or before the 15th day of every month following the month to which the contribution relates.

(3) Every payment under sub-paragraph (2) shall be made in one or the other of the methods specified below, that is to say:—

(i) by means of a crossed account payee cheque on the Imperial Bank of India, Dhanbad, in favour of the Coal Mines Provident Fund Account No. 1;

(ii) by means of a crossed account payee bank draft on the Imperial Bank of India, Dhanbad, in favour of the Coal Mines Provident Fund Account No. 1;

(iii) by a deposit of the amount in cash in the Imperial Bank of India, Dhanbad for being credited to the Coal Mines Provident Fund Account No. 1;

(iv) by a deposit of the amount in cash in any Government treasury specified in Schedule B annexed hereto under the following head of account:—

“P—Deposits and Advances—Part II—Deposits not bearing interest—(c) other deposits accounts—Other Deposits—Deposits of the Coal Mines Provident Fund Contribution from the 1st January, 1949.”

(4) A monthly abstract of all payments by an employer under sub-paragraph (3) shall be made in Form ‘P’ annexed hereto separately in respect of each colliery and it shall be forwarded in duplicate to the Commissioner by registered post or by a messenger on or before the 15th day of each month, following the month to which such payments relate together with the appropriate cheques, drafts, receipted pay-in-slips or original receipted challans in token of the employer having made such payments.”

Par. 33B (P. 117) *After* para. 33A, the following new para was inserted by Notification No. S.R.O. 1852, d/- 20.8.55, namely:—

“33B. *Rate of administrative charge*

(1) The amount for defraying the cost of administration of the Fund payable under sub-paragraph (2) of paragraph 33A of this Scheme shall be calculated at the following rates:—

Contribution.

Rate of administrative charges.

(i) Provident Fund contribution payable for any period upto the 17th July, 1955. Five per centum of the total amount of member's and employer's contributions.

(ii) Provident Fund contribution Three per centum of the total payable for any period after amount of member's and employer's contributions. the 17th July, 1955.

(2) the rate mentioned in clause (ii) of sub-paragraph (1) may, from time to time, be reviewed by the Central Government in consultation with the Board."

Par. 36 (P. 117) *After* sub-para. (2), the following sub-para. was inserted by Notification No. S.R.O. 3306, d/- 22.10.54, namely:—

'(3) Subject to the provisions of this paragraph, no overwriting or erasure mark shall be allowed to be made in any entry in the Contribution Card of a member relating to the basic wages of such member and the contributions paid in respect of him:

Provided that where any alteration or amendment of such entry becomes necessary in the opinion of the manager, accountant or the head clerk of a coal mine, such alteration or amendment shall be made in the Contribution Card by scoring through the incorrect entry and substituting therefor a correct entry, which will be duly initialled by the manager, accountant or the head clerk, as the case may be:

Provided further that where any adjustment on account of any excess or short payment becomes necessary, a plus or minus entry, as the case may be, shall be recorded in the appropriate column of the Contribution Card."

Par. 37 (P. 117) *For* "in respect of the person a Contribution Card in Form D or E as may be appropriate" *read* the following:—

"in respect of the person a Contribution Card—

(a) in respect of a period of currency commencing before the 1st April, 1953 in Form D or, as the case may be, in Form E, and

(b) in respect of any period of currency commencing on or after the 1st April, 1953 in Form D (Revised) annexed hereto or, as the case may be, in Form E—(Revised) annexed hereto."

(*Vide* Notification No. S.R.O. 3306, d/- 22.10.54 as corrected by Notification No. S.R.O. 102, d/- 27.12.54, pub. in Gazette of India, d/- 8.1.55, Pt. II-Sec. 3, p. 71.)

Par. 37A (P. 117) *After* para. 37 the following paragraph was inserted by Notification No. S.R.O. 3306 d/- 22.10.54, namely:—

"37A. *Method of opening of Contribution Cards for periods of currency commencing on or after the 1st of April, 1953.*—Every employer shall in respect of every member in a coal mine to which this Scheme applies, other than an excluded employee, shall on or before the commencement of any period of currency beginning on or after the 1st of April, 1953, open a new Contribution Card in Form D (Revised) or E (Revised) annexed hereto, as the case may be, and record in the appropriate columns of the Contribution Card entries showing the amount of wages earned by such employee in every month or week, and the total amount of the member's contribution and the employer's contribution payable in respect of each month or week for such employee."

Par. 41 (P. 118) The following proviso to para. 41 was added by Notification No. S.R.O. 3306, d/- 22.10.54, namely:—

"Provided that such Contribution Card shall be prepared in Form D (Revised) or E (Revised) annexed hereto, as the case may be, in respect of each member for any period of currency commencing on or after the 1st April, 1953."

Par. 42 (P. 118) *After* "annexed hereto", *read* "in respect of Contribution Cards relating to any period of currency commencing before the 1st April, 1953, and in Form I (Revised) annexed hereto in duplicate, in case of Contribution Cards relating to any period of currency commencing on or after such date". (*Vide* Notification No. S.R.O. 3306, d/- 22.10.54.)

Par. 44 (P. 118) *Renumber* para. 44 as sub-para. (1) of para. 44 and in sub-para. (1) as so renumbered *after* "where an employee leaves service in a coal mine" *read* "at any time during any period of currency commencing before the 1st April, 1953", and *after* sub-para. (1) *read* the following sub-para., namely:—

"(2) Where an employee leaves service in a coal mine or is transferred to any other coal mine or when his service is terminated by the employer at any time during any period of currency commencing on or after the 1st April, 1953, the Contribution Card of such employee shall be retained by the employer for submission to the Commissioner on the expiry of the period of the currency to which the Contribution Card relates or at any time before the expiry of such period, if so directed by the Commissioner."

(*Vide* Notification No. S.R.O. 3306, d/- 22.10.54.)

Par. 45 (P. 119) To para. 45, the following provisos were added by Notification No. S.R.O. 3306, d/- 22.10.54, namely:—

"Provided that in respect of any person who presents himself for work at a coal mine at any time during a period of currency commencing on or after the 1st of April, 1953, the employer shall require the person to furnish a written declaration in Form 'Q' annexed hereto or if the person is unable to read and write in English, the employer shall obtain the necessary information from the person and complete the form and obtain thereon the person's signature or thumb impression. Such person on being so required to do shall complete the form or furnish the information, as the case may be. The declaration in Form 'Q' from any such person containing a negative statement shall be affixed to the declaration of such person in Form A and forwarded to the Commissioner along with the returns in Form H as and when such person qualifies for membership of the Fund. Where the declaration in Form 'Q' is affirmative, it shall be preserved by the employer until such time as the contents thereof are verified from the previous employer;

Provided further that where any such person makes a declaration in Form 'Q' to the effect that he was a member of the Fund, the employer shall open for him a new Contribution Card in Form D (Revised) or E (Revised), as the case may be, and enter therein the

basic wages and the total of the member's and the employer's contributions to be paid by the new employer during the remaining period of currency during which such person has worked under the new employer. The employer shall at the same time take steps to verify the truth or otherwise of the statement from his former employer, who shall be bound to furnish the required information:

Provided also that where such person makes a false declaration in Form Q' suppressing the fact of his previous membership of the Fund, the arrears on account of the member's share of the contribution may, notwithstanding the proviso to sub-paragraph (1) of paragraph 29, be realised from his wages which he may earn subsequently in such number of instalments as may be considered to be suitable by the Commissioner who shall be furnished with a complete report of the case, supported by the declaration in Form 'Q' within a period of fifteen days from the date on which the falsity of the declaration of such person comes to the notice of the new employer."

Par. 50A (P. 120) In sub-para. (1), after "under paragraphs 31(2), 32(2)" read "33A(3)(iv)". (*Vide* Notification No. S.R.O. 3306, d/- 22.10.54).

Par. 51 (P. 121) *Renumber* para. 51 as sub-para. (1) of para. 51 and after sub-para. (1), read the following new sub-paragraph, namely:—

"(2) Of the sum realised under paragraph 33A, an amount equal to the contributions to the Fund shall be credited to an account to be named "Suspense General Account" and the amount received for defraying the cost of administration to an account to be called "Administration Account." (*Vide* Notification No. S.R.O. 3306, d/- 22.10.54.)

Par. 52 (P. 121) *Renumber* para. 52 as sub-para. (1) of para. 52, in sub-para. (1) as so renumbered, after "when the Contribution Card of members" read "for any period of currency commencing before the 1st April, 1953", and after sub-para. (1), read the following new sub-paragraph, namely:—

"(2) On receipt of the Contribution Cards relating to any period of currency commencing on or after the 1st of April, 1953 and after verification of the deposits received from the coal mines concerned, the total amount of contributions entered in the Contribution Cards shall be credited to an account to be called "The Provident Fund Account" by contra debit to "the Suspense General Account."

(*Vide* Notification No. S.R.O. 3306, d/- 22.10.54.)

Par. 56 (P. 122) In sub-para (1), omit "and of the members of the Committee". (*Vide* Notification No. S.R.O. 1340, d/- 1.6.56.)

Par. 57 (P. 122) In sub-para (1), for "Committee" substitute "Commissioner" and for "it" appearing after "the expenditure which" substitute "he". (*Vide* *ibid.*)

Par. 60 (P. 122) In sub-para. (3), after "On receipt of the Contribution and Emergency Cards, if any, of a member", read "in respect of any period of currency commencing before the 1st April, 1953", and after sub-para. (3), read the following new sub-paragraph, namely:—

"(4) On receipt of the Contribution Card of a member in respect of any period of currency commencing on or after the 1st of April, 1953, from his employer at the end of the period of currency of the Contribution Card, the Commissioner shall ascertain therefrom the total amount of the member's and the employer's contributions paid for the member and shall credit the amount to the account of the member as at the last day of the period of currency."

(*Vide* Notification No. S.R.O. 3306, d/- 22.10.54.)

Par. 63 (P. 124) (i) For sub-para. (2), read the following sub-paragraph, namely:—

"(2) The Board, or where so authorised by the Board, the Commissioner, or where so authorised by the Commissioner, any Officer subordinate to him, may permit a member who has not attained the age of 50 years to withdraw the amount standing to his credit in the Fund, if—

(a) he has migrated from India for permanent settlement abroad, or being a national of a country other than India and having ceased to work in or in connection with a coal mine, declares his intention of leaving India for at least a year, or

(b) he has not been employed in any coal mine to which this Scheme applies for a continuous period of not less than one year immediately preceding the date on which he makes an application for withdrawal, or

(c) in the case of a member employed on fixed term contract, he does not continue to work in the coalfields after the expiry of his contract:

Provided, however, that the exercise or discharge of the powers so delegated shall be subject to such restrictions, limitations and conditions, if any, as the Board may impose:

Provided further that before the withdrawal is allowed (i) the full amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is less than 10 years, or (ii) half the amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is ten years or more but less than 25 years."

(ii) after sub-para. (2), read the following new paragraph, namely:—

"(2A) The Central Government may permit any class of members to withdraw at any time after the termination of their services, the full amount standing to their credit and authorise the Commissioner to make payment to individual members of that class in accordance with such instructions as may be issued by the Central Government in this regard."; and

(iii) for sub-para. (3), read the following sub-paragraph, namely:—

"(3) A member who withdraws under sub-paragraph (2) or a member withdrawing under sub-paragraph (2A) who has not attained the age of 50 years at the time of withdrawal shall be required to join

as a new member of the Fund if he obtains employment again in a coal mine and qualifies again for the membership of the Fund."

(*Vide* Notification No. S.R.O. 366, d/- 8.2.56, pub. in Gazette of India, d/- 18.2.56, Pt. II-Sec. 3, pp. 199-200.)

Par. 64 (P. 125) *After* the second proviso to clause (ii), the following new clause was *inserted* by Notification No. S.R.O. 1208, d/- 28.5.55 (*vide* Gazette of India, d/- 4.6.55, Pt. II-Sec. 3, p. 1031), namely:—

"In any case to which the provisions of clauses (i) and (ii) do not apply the whole amount of the contribution made by the deceased member to the Fund together with interest thereon shall be payable to the person legally entitled to it:

Provided that the Commissioner, where such amount does not exceed Rs. 300 or the Chairman of the Board where it exceeds Rs. 300 but does not exceed Rs. 600, may after giving notices to such persons and in such manner and making such summary inquiry as he thinks fit, make payment of the amount to the person who appears to him to be legally entitled thereto and such payment shall be a full discharge from all liability in respect of the amount paid; but in such a case the Commissioner or as the case may be, the Chairman may before making the payment obtain from the person to whom the payment is made, such security as he considers necessary."

Par. 65 (P. 125) In sub-para (3), for "at a meeting to be held within three months of" substitute "when it meets after" and for "Commissioner" (which is a misprint for "Committee") and "Committee" substitute "Board". (*Vide* Notification No. S.R.O. 1340, d/- 1.6.56.)

Par. 69B (P. 127) *After* para. 69A, the following paragraph was added by Notification No. S.R.O. 3480, d/- 2.11.55 (*vide* Gazette of India, d/- 12.11.55, Pt. II-Sec. 3, p. 2246), namely:—

"69B. *Transfer of records in case of change of ownership or closure of a coal mine—*

(1) In the event of a change in the ownership of a coal mine to which this Scheme applies, the previous owner shall, within a period of one month from the date of change in ownership, transfer to the new owner all records relating to this Scheme and within a fortnight of the transfer of records furnished by registered post or through a messenger a handing and taking over report in Form 'R' annexed hereto, in duplicate, to the Coal Mines Provident Fund Commissioner, duly completed by the new owner who shall take over the records transferred to him under this paragraph and acknowledge the same in the said report.

(2) In the event of any colliery being closed, the owner shall, within a period of one month from the date of closure, forward by registered post or through a messenger, to the Commissioner all records relating to this Scheme and a statement in such Form as the Commissioner may specify, showing the details of the outstanding dues of the Fund, if any."

Sch. B. (P. 128) *After* Schedule A, the following new Schedule was added by Notification No. S.R.O. 3306, d/- 22.10.54, as subsequently amended by Notification No. S.R.O. 102, d/- 27.12.54 (*vide* Gazette of India, d/- 8.1.55, Pt. II-Sec. 3, p. 71), namely:—

“SCHEDULE ‘B’

List of treasuries/sub-treasuries at which amounts may be deposited for being credited to the Fund.

<i>West Bengal</i>	<i>Madhya Pradesh</i>
Asansol	Manendragarh
Caleutta	Nagpur
Bankura	Baikunthpur
Suri	Bilaspur
	Chanda
<i>Bihar</i>	Chhindwara
Manbhum	<i>Rewla</i>
Dhanbad	Shahdol
Hazaribagh	Umaria
Ranchi	<i>Assam</i>
Palamau	Shillong
<i>Orissa</i>	Sibsagar
Sambalpur	Margherita
Talcher	Dibrugarh.”

Forms D (Revised), **E** (Revised), **I** (Revised), **P, Q & R** (Pp. 132, 134, 136 & 140). *After* Form D, new Form D (Revised), *after* Form E, new Form E (Revised), *after* Form I, new Form I (Revised) and *after* Form O, new Forms P & Q were added by Notification No. S.R.O. 3306, d/- 22.10.54 (*vide* Gazette of India, d/- 30.10.54, Pt. II-Sec. 3, p. 2558, at pp. 2563-2573); *after* Form Q, new Form R was added by Notification No. S.R.O. 3480, d/- 2.11.55 (*vide* Gazette of India, d/- 12.11.55, Pt. II-Sec. 3, pp. 2246-2247). Form P was subsequently amended by Notification No. S.R.O. 1852, d/- 20.8.55 (*vide* Gazette of India, d/- 27.8.55, Pt. II-Sec. 3, p. 1681).

The Cotton Ginning and Pressing Factories Act, 1925.

(P. 156) At the end of the second paragraph of foot note 1, add the following:—

“The Act has been amended in its applications to the State of Hyderabad by the Cotton Ginning and Pressing Factories (Hyderabad Am.) Act, 1954 (Hyder. 33 of 1954).”

The Indian Dock Labourers Regulations, 1948.

Forms III to VIII (Pp. 206, 207, 208, 209 & 210) In Forms III to VIII under the heading “Notes” for the definition of “competent person” the following definition was substituted by Notification No. S.R.O. 3482, d/- 18.11.54 (*vide* Gazette of India, d/- 27.11.54, Pt. II-Sec. 3, p. 2723), namely:—

"'Competent person' means an official of a workshop in India approved for any of the specified purposes in respect of testing, examination, annealing or certification of plant, lifting machinery or gear by the Central Government or by an authority nominated by the Central Government in that behalf, and any other person who is recognised as 'competent person' for the purpose of the national regulations in force in other countries for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932, adopted by the International Labour conference."

The Dock Workers (Advisory Committee) Rules, 1949.

R. 3 (Pp. 227-228) For rule 3, the following rule was substituted by Notification No. S.R.O. 1276, d/- 23.5.56 (*vide* Gazette of India, d/- 2.6.56, Pt. II-Sec. 3, pp. 910-911), namely:—

"3. *Constitution*.—The Committee shall consist of fifteen members to be appointed by the Central Government, namely:—

(1) five members representing the Central Government who shall be—

(i) The Secretary to the Government of India, Ministry of Labour, who shall be the Chairman,

(ii) the Chairman, Calcutta Dock Labour Board,

(iii) the Chairman, Bombay Dock Labour Board,

(iv) the Chairman, Madras Dock Labour Board,

(v) the Director General of Shipping.

(2) five members representing the employers of dock workers who shall be appointed in consultation with such Associations of employers as the Central Government may consider appropriate,

(3) five members representing the dock workers who shall be appointed in consultation with such unions of dock workers as the Central Government may consider appropriate."

R. 3-A (P. 228) After rule 3, the following rule was inserted by *ibid* (*vide ibid*), namely:—

"3-A. *Secretary of the Committee*.—The Chief Labour Commissioner (Central) shall be the ex-officio Secretary of the Committee and shall be entitled to attend meetings of the Committee. He shall not have a right to vote."

R. 5-A (P. 228) After rule 5, the following rule was inserted by Notification No. S.R.O. 1390, d/- 6.6.56 (*vide* Gazette of India, d/- 16.6.56, Pt. II-Sec. 3, pp. 1040-1041), namely:—

"5-A. *Reconstitution of the Committee*.—The Central Government may reconstitute the Committee under rule 3 as amended by the notification of the Government of India in the Ministry of Labour No. S.R.O. 1276, dated the 23rd May, 1956 and when the Committee is so reconstituted, the term of office of the members of the Committee then existing shall expire."

R. 13 (P. 230) For items (a) and (b) of sub-cl. (1) of cl. (2), the following items were substituted by Notification No. S.R.O. 44, d/- 23.12.54 (*vide* Gazette of India, d/- 1.1.55, Pt. II-Sec. 3, p. 33), namely:—

"(a) in respect of journeys by air—one and one-fourth of the standard fares each way, if a journey by air is permitted by the Central Government in the public interest;

(b) in respect of journeys by train—one single fare of the accommodation in the highest class, other than the air conditioned accommodation, provided on the railway by which a member travels *plus* 12 pies per mile;"

The Employees' State Insurance Act, 1948.

Dates on which certain Chapters of the Act came into force in certain areas in the States of West Bengal, Andhra, Madras, Uttar Pradesh and Madhya Pradesh.

S. 1 (P. 281) In foot note i under sec. 1, at the end read the following:—

"The provisions of Chapter IV (except secs. 44 and 45 thereof already brought into force), Chapter V and Chapter VI (except sub-sec. (1) of sec. 76 and secs. 77, 78, 79 and 81 thereof already brought into force) were brought into force—

(1) on 14.8.55 in the following areas of the State of West Bengal, namely:—

(i) Areas within the limits of the Calcutta Municipal Corporation and Tollygunj Municipality.

(ii) The revenue district of Howrah excluding the area within the jurisdiction of Sympore Police Station in Uluberia Sub-Division. (*Vide* Notification No. S.R.O. 1770, d/- 10.8.55, pub. in Gazette of India, Extraordinary, d/- 13.8.55, Pt. II-Sec. 3, p. 1819.)

(2) on 9.10.55 in the following areas of the State of Andhra, namely:—

The areas within the limits of:—

(a) Visakhapatnam Port area and Visakhapatnam Municipal Town in Visakhapatnam Taluk (Visakhapatnam District);

(b) Chintivala in Bhimuniapatnam Taluk (Visakhapatnam District);

(c) Nellimarla Village in Vizianagram Taluk (Visakhapatnam District);

(d) Eluru Municipal Town and Eluru Firkha in Eluru Taluk (West Godavari District);

(e) Vijayawada Municipal Town (Krishna District);

(f) (1) Mangalagiri village in Mangalagiri Firkha in Guntur Taluk (Guntur District);

(2) Pedakakahi Firkha in Guntur Taluk (Guntur District);

(g) Guntur Municipal Town in Guntur District. (*Vide* Notification No. S.R.O. 2186, d/- 5.10.55, pub. in Gazette of India, Extraordinary, d/- 5.10.55, Pt. II-Sec. 3, p. 2197.)

(3) on 20.11.55 in the following areas in the State of Madras, namely:—

1. The area within the Corporation limits of the City of Madras.

II. The following Revenue villages in Saidapet Taluk in Chingleput District:—

(i) Tiruvottiyur

(ii) Villivakkam

(iii) Korattur

(iv) Saligramam

(v) Virugambakkam

(vi) Valasapakkam

- (vi) Ambattur.
- (vii) Pallavaram; and
- (ix) Pammal (Chromepet).

III. Vandalur Revenue Village of Chingleput Taluk in Chingleput District.

IV. Ennore Revenue Village of Ponnery Taluk in Chingleput District. (*Vide* Notification No. S.R.O. 2484, d/- 9.11.55, pub. in Gazette of India, Extraordinary, d/- 11.11.55, Pt. II-Sec. 3, p. 256.)

(4) on 15.1.56 in the following areas in the State of Uttar Pradesh, namely:—

The areas within the limits of:—

- I. (i) Agra Municipality.
- (ii) Agra Cantonment.
- (iii) Revenue villages of Bodla, Jaganpur (Dayalbagh) and Havaghar in Agra Tehsil of Agra District.

II. (i) Saharanpur Municipality.

(ii) The following revenue villages of Saharanpur Tehsil in Saharanpur District:—

- (a) Sheikhpur, Kadeem,
- (b) Durga Sheopuri.

III. (i) Lucknow Municipality.

(ii) Lucknow Cantonment.

(iii) Alambagh-Charbagh notified area.

(iv) Revenue village of Bargawan in Bijnor Pargana of Lucknow Tehsil in Lucknow District.

(v) Revenue villages of Anaura, Anaura and Gauri in Bijnor Pargana of Lucknow Tehsil in Lucknow District. (*Vide* Notification No. S.R.O. 39-A, d/- 10.1.56, pub. in Gazette of India, Extraordinary, d/- 16.1.56, Pt. II-Sec. 3, p. 76A.)

(5) on 27.3.56 in the following areas of the State of Madhya Pradesh, namely:—

The areas with the limits of:—

I. Akola Municipality.

II. Hinganghar Municipality. (*Vide* Notification No. S.R.O. 1186, d/- 19.5.56, pub. in Gazette of India, Extraordinary, d/- 19.5.56, Pt. II-Sec. 3, p. 927.)

The Employees' State Insurance (Central) Rules, 1950.

R. 5 (P. 336) For sub-cl. (a) of cl. (i) of sub-rule (2), the following was substituted by Notification No. S.R.O. 1171, d/- 9.5.56 (*vide* Gazette of India, d/- 19.5.56, Pt. II-Sec. 3, p. 779), namely:—

“(a) in respect of journeys by air, the actual fare paid plus incidental expenses on the same scale as the Central Government may from time to time fix for its own officers of the first grade;”

R. 31 (Pp. 345 & 346). For the words, “first of October”, “twentieth of October” and “first of November” occurring in sub-rules (1), (4) and (5), the words “first of February”, “twentieth of February” and “first of March”, respectively, were substituted by Notification No. S.R.O. 1173, d/- 15.5.56 (*vide* Gazette of India, d/- 19.5.56, Pt. II-Sec. 3, p. 780).

The Employees' State Insurance (General) Regulations, 1950.

The following amendments were made by Notification No. C.O. 12 (1) 54, d/- 1.3.55 (*vide* Gazette of India, d/- 12.3.55, Pt. IV, p. 25):—

Reg. 26 (P. 363) In cl. (c), for '15', read '28';

Reg. 30 (P. 364) (i) In cl. (a), for '10', read '21' and
(ii) in cl. (c), for '14', read '21'.

Reg. 52 (P. 369) *After* sub-reg. (4), read the following proviso, namely:—

"Provided that the Corporation may waive the deduction of the cost of remittance in such cases as the Director-General may, from time to time, specify."

Forms 1 & 4 (Pp. 383 & 386) For "Photograph of the insured person", read "Identification marks/photograph of the insured person".

The Employment of Children (Railways) Rules, 1955.

(Pp. 430-431) The Employment Children (Railways) Rules, 1940 have been superseded by the following rules (*vide* Notification No. S.R.O. 3600/ECA/7/2(i), d/- 24.11.55, pub. in Gazette of India, d/- 3.12.55, Pt. II-Sec. 3, pp. 2325-2327), namely:—

"The Employment of Children (Railways) Rules, 1955.

1. (1) These rules may be called the Employment of Children (Railways) Rules, 1955.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. In these rules, unless the context otherwise requires—

(i) the "Act" means the Employment of Children Act, 1938; and

(ii) "qualified medical practitioner" means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933).

3. Every child employed under the provisions of sub-section (2) of section 3 of the Act to work in any occupation specified in cl. (a) of sub-section (1) of the said section shall be allowed an interval of rest for at least twelve consecutive hours which shall include seven consecutive hours from 10 P.M. to 5 A.M.:

Provided that permission in writing to fix the seven consecutive hours other than those mentioned above, between 10 P.M. to 7 A.M. is obtained from an Inspector appointed under the Act.

4. The provisions of sub-section (2) of section 3 of the Act shall not apply to any child who has completed his fifteenth year but has not completed his seventeenth year while such a child is employed or permitted to work in any occupation specified in clause (a) of sub-section (1) of the said section either as an apprentice or for the purpose of receiving vocational training subject to the following conditions:—

(a) the scheme of apprenticeship or vocational training shall have the prior approval of the Central Government, which may consult such organisations of workers and employers as it considers appropriate before according its approval;

(b) every such child shall be granted a rest period of at least thirteen consecutive hours between two working periods;

(c) every such child shall be medically examined and found fit for the particular trade; and

(d) an agreement to this effect shall be signed by the employer or his authorised representative on the one hand and the parent and guardian of the child on the other hand specifying the terms and conditions of apprenticeship.

5. The competent authority may exercise the powers conferred upon it under the second proviso to sub-section (2) of section 3 of the Act in order to avoid serious interference with the ordinary working of the railway, in cases of accident, or in any other emergency which could not have been foreseen or prevented.

6. (1) The register required to be maintained under section 3-D of the Act shall be in Form A appended to these rules.

(2) The register shall normally be maintained in English, but where it is maintained in any other language than English a true translation thereof in English shall be available.

(3) The register shall be maintained for a period of three years after the date of the last entry made therein.

7. Every railway administration shall cause to be displayed in a conspicuous and accessible place at every station on its railway a notice containing an abstract of sub-sections (1) and (2) of section 3 and section 4 of the Act, in English and in a language understood by a majority of the persons employed.

8. An Inspector appointed by the Central Government may enter any place where persons are employed in any occupation connected with the transport of passengers, goods or mails on a railway and may take on the spot, or otherwise such evidence of any persons and exercise such other powers of inspection as he may deem necessary for carrying out the purpose of the Act.

9. (1) Any qualified medical practitioner may grant certificates of age in respect of young persons in employment or seeking employment in railways.

(2) A certificate of age granted under sub-rule (1) shall be in Form B appended to these rules.

FORM 'A'

Register of Children between 15 and 17 years of age

Name and address of employer

Place of work

Serial No.	Name of child	Father's name	Date of birth	Permanent address	Date of joining the establishment	Nature of work on which employed	Daily hours of work	Intervals of rest	Remarks
1	2	3	4	5	6	7	8	9	10

FORM 'B'

Certificate of Age

I hereby certify that I have personally examined (name).....
son/daughter of.....
 residing at.....
 and that he/she has completed his/her fifteenth year and his/her age, nearly as
 can be ascertained from my examination, is.....years
 (completed).

His/her descriptive marks are.....
 Thumb impression of child.....
 Place.....

Medical Practitioner."

The Employment of Children (Major Ports) Rules, 1955.

(Pp. 431-432) The Employment of Children (Major Ports) Rules, 1940 have been superseded by the Employment of Children (Major Ports) Rules, 1955 which are same as the Employment of Children (Railways) Rules, 1955 (*see above*) subject to the following modifications (*vide* Notification No. S.R.O. 3643 ECA/7/2(1), d/- 1.12.55 pub. in Gazette of India, d/- 10.12.55, Pt. II-Sec. 3, pp. 2346-2348), namely:—

(1) In sub-rule (1) of rule 1, for "(Railways)", read "(Major Ports)";

(2) for rule 2, read the following:—

"2. In these rules, unless the context otherwise requires, "the Act" means the Employment of Children Act, 1938 (XXVI of 1938).";

(3) in rules 3 and 4 for "specified in clause (a)" read "specified in clause (b)";

(4) in rule 5, for "the ordinary working of the railway, in cases of accident," read "the ordinary working of the major port when urgent work is required to be done";

(5) in rule 7, for "railway administration" read "port authority" and for "at every station on its railway" read "within the limits of a port";

(6) in rule 8, for "the transport of passengers, goods or mails on a railway" read "the transport of passengers or goods within the limits of a major port";

(7) in rule 9, for sub-rule (1), read the following:—

"(1) A Port Health Officer or Assistant Port Health Officer may grant certificates of age free of charge in respect of young persons in employment or seeking employment in major ports.";

(8) in Form A, below "Form 'A'" read "[see Rule 6(1).]"; and

(9) in Form B, below "Form 'B'" read "[See rule 9(1).]", and at the end for "Medical Practitioner" read

"Port Health Officer

Assistant Port Health Officer."

The Industrial Disputes (Central) Rules, 1947.

Rr. 55A, 55B & 55C. (P. 530) After rule 55, the following rules were inserted by Notification No. S.R.O. 1419, d/- 27.6.55 (*vide* Gazette of India, d/- 2.7.55, Pt. II-Sec. 3, pp. 1169-1170), namely:—

"55A. *Notice of retrenchment.*—If any employer desires to retrench any workman employed in his industrial establishment who has been in continuous service for not less than one year under him (hereinafter referred to as 'workman' in this rule and in rules 55B and 55C), he shall give notice of such retrenchment as in Form GG to the Central Government and such notice shall be served on that Government by registered post in the following manner:—

(a) Where notice is given to the workman, notice of retrenchment shall be sent within three days from the date on which notice is given to the workman;

(b) Where no notice is given to the workman and he is paid one month's wages in lieu thereof, notice of retrenchment shall be sent within three days from the date on which such wages are paid; and

(c) Where retrenchment is carried out under an agreement which specifies a date for the termination of services, notice of retrenchment shall be sent so as to reach the Central Government at least one month before such date:

Provided that if the date of termination of service agreed upon is within 30 days of the agreement, the notice of retrenchment shall be sent to Government within 3 days of the agreement.

55B. Maintenance of seniority list of workmen.—The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be posted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

55C. Re-employment of retrenched workmen.—(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of these vacancies and shall also give intimation of those vacancies to every one of all the retrenched workmen eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time thereafter:

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 55B, the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration less than one month, there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen.

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and the names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where intimation is sent to every one of the workmen mentioned in the list prepared under rule 55B."

Form GG (P. 537) After Form G, the following Form was inserted by *ibid* (*vide ibid* at pp. 1170-1171), namely:—

"FORM GG

(See rule 35A)

Form of notice of retrenchment to be given by an employer under clause (c) of section 25F of the Industrial Disputes Act, 1947.

Name of employer	Address	
dated the	day of	195
To		

The Secretary to the Government of India, Ministry of Labour, New Delhi.

Sir,

Under clause (c) of section 25F of the Industrial Disputes Act, 1947 (XIV of 1947), I/we hereby inform you that I/we have decided to retrench%.....workmen with effect from the.....for the reasons explained in the annex.

2. * The workmen concerned were given on the

* Retrenchment is being effected in pursuance

* The workmen were given on the @ 195

@ 195 one month's notice in writing as required

of an agreement, a copy of which is enclosed.

one month's pay in lieu of notice, as required under clause (a)

under clause (a) of section 25F of that Act.

of section 25F of that Act.

⊗ Here insert the number of workmen.

Ⓢ Here insert the date.

* Delete the portion which is not applicable.

3. The total number of workmen employed in the industrial establishment is.....X.....and the total number of those who will be affected by the retrenchment is given below:—

Category or designation of workmen to be retrenched.	Number of workmen	
	Employed	To be retrenched.
(1)	(2)	(3)
1.		
2.		
3.		

Yours faithfully,

F

X Here insert the total number of workmen employed in the industrial establishment.

F Here insert the position which the person who signs this letter holds with the employer issuing the letter.

ANNEXE

Statement of reasons.

Copy to—

(1) Conciliation Officer (Central)

(Here enter office address of the Conciliation Officer in local area concerned).

(2) Regional Labour Commissioner (Central), New Delhi."

The Industrial Disputes (Appellate Tribunal) Act, 1950.

S. 23A. (P. 548) After sec. 23, the following new section was inserted by the Industrial Disputes (Appellate Tribunal) Amendment Act, 1955 (29 of 1955), namely:—

"23A. *Special provisions for the disposal of certain proceedings by the Chairman or a member of the industrial Tribunal.*—(1) Where any proceeding under section 22 or section 23 is pending before the Appellate Tribunal, the Chairman, without constituting any Bench for the purpose, may—

- (a) dispose of the proceeding himself sitting singly;
- (b) authorise any member to dispose of the proceeding sitting singly;
- (c) transfer the proceeding, whether pending before the Appellate Tribunal or himself or any member, to any one of the industrial tribunals specified for the disposal of such proceedings by the Central Government by notification in the Official Gazette;
- (d) withdraw any such proceeding from any industrial tribunal to which it has been transferred under clause (c) and dispose of the same sitting singly, or authorise any member to dispose of the same sitting singly or transfer the same to any one of the other industrial tribunals so specified.

(2) Where the Chairman or any other member sits singly to dispose of any proceeding under this section, he shall have all the powers of the Appellate Tribunal in the disposal of the proceeding.

(3) Where any proceeding is transferred to an industrial tribunal under this section, the industrial tribunal may, subject to any special directions in the order of transfer, proceed either *de novo* or from the stage at which it was transferred, and shall dispose of the proceeding as if it were a proceeding under section 33 or, as the case may be, section 33A of the Industrial Disputes Act, 1947 (XIV of 1947), and the provisions of that Act shall apply accordingly.

(4) Notwithstanding anything contained in section 7, no appeal shall lie to the Appellate Tribunal from any order or award of an industrial tribunal made in any proceeding transferred to it under this section."

The Industrial Employment (Standing Orders) Central Rules, 1946.

R. 5 (P. 581) *After item (3), the following item was inserted by Notification No. S.R.O. 556, d/- 24.2.56 (vide Gazette of India, d/- 3.3.56, Pt. II-Sec. 3, p. 294), namely:—*

"(3A) Number of casual workmen".

The Mineral Concession Rules, 1949.

R. 58 (P. 800) *For "Imperial Bank of India", read "State Bank of India". (Vide Notification No. 302, d/- 1.2.56, pub. in Gazette of India, d/- 11.2.56, Pt. II-Sec. 3, p. 170).*

ADDENDA (2)

The Employees' Provident Funds Act, 1952.

Sch. 1 (P. 241) The industries specified in the table below were added to Schedule I by the Central Government under sec. 4 of the Act with effect from 31st July, 1956, by Notification No. S.R.O. 1566, d/- 4.7.56, published in Gazette of India, d/- 7.7.56, Pt. II-Sec. 3, p. 1192, namely:—

TABLE

1. Matches.
2. Edible oils and fats.
3. Sugar.
4. Rubber and rubber products.
5. Electricity including the generation, transmission and distribution thereof.
6. Tea.
7. Printing (other than printing industry relating to newspaper establishments as defined in the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955), including the process of composing types for printing, printing by letter press, lithography, photogravure or other similar process or book-binding.
8. Glass.
9. Stone-ware pipes.
10. Sanitary Wares.
11. Electrical Porcelain Insulators of high and low tension.
12. Refractories.
13. Tiles.

The Employees' Provident Fund Scheme, 1952.

Par. 1 (P. 244) The following amendments were made in para 1 by Notification No. S.R.O. 1567, d/- 4.7.56, pub. in Gazette of India, d/- 7.7.56, Pt. II-Sec. 3, p. 1192, namely:—

(1) To cl. (a) of sub-para (3) *add* the following proviso, namely:—

"Provided that the provisions of this scheme shall not apply to:

(i) match factories having annual production of five lakhs gross boxes of matches or less;

(ii) such glass factories, other than sheet glass and glass shell factories, as have an installed capacity of 600 tons per month or less;

(iii) Tea factories in the State of Assam."

(2) For cl. (b) of sub-para (3) *substitute* the following clause, namely:—

"Provisions of this Scheme shall—

(1) as respects factories relating to the industries added to Schedule I of the Act, by notification of the Government of India in the Ministry of Labour No. S.R.O. 1566, dated 4th July 1956 come into force on the 31st day of July, 1956.

(2) as respects factories relating to other industries be deemed to have come into force with effect from the 2nd day of September, 1952."

The Employees' State Insurance (Central) Rules, 1950.

R. 5 (Pp. 336-337) In rule 5 the following amendments were made by Notification No. S.R.O. 1564, d/- 30.6.56, pub. in Gazette of India, d/- 7.7.56, Pt. II-Sec. 3, p. 1191, namely:—

(1) For sub-cl. (b) of cl. (i) of sub-rule (2) substitute the following, namely:—

"(b) in respect of journey by rail, a single fare of the class by which he travels on payment of full fare, plus 12 pies per mile, from and to the usual place of business or from and to the place from or to which the journey is actually performed by the member, whichever is less, the rate of 12 pies per mile being subject to the same modifications as the Central Government may make from time to time in this regard in respect of its own officers of the first grade.

Air-conditioned accommodation will not be treated as one of the classes of accommodation for purposes of rail travel, but a member will have the option to travel by air-conditioned accommodation, by paying from his own pocket, the difference between the fare for the air-conditioned and the highest class accommodation provided on the train by which he travels.

NOTE.—Return tickets should be purchased whenever they are available, and when it is expected that the return journey will be performed before the expiry of the period for which return tickets are available."

(2) in cl. (ii) of sub-rule (2), after the word "meetings" at the end, add the following, namely:—

"and also in respect of the days intervening between a meeting of the Standing Committee and that of the Corporation if the latter meeting is held within two days of the meeting of the former and if the member continues to reside at the place of the meeting during the period":

(3) for Note (1), substitute the following, namely:—

(1) Travelling and daily allowance shall be allowed if a member certifies that he has not drawn any travelling or daily allowance from any other source in respect of the journey and halt for which the claim is made. A member who possesses a free pass provided to him in his capacity as a Member of Parliament, will be expected to use the pass while travelling on business of the Corporation also."

The Mineral Concession Rules, 1949.

R. 23 (P. 788) In rule 23, the following amendments were made by Notification No. S.R.O. 1558, d/- 30.6.56, pub. in Gazette of India, d/- 7.7.56, Pt. II-Sec. 3, pp. 1188-1189, namely:—

(1) *After* cl. (v) of sub-rule (1), *insert* the following clause, namely:—

“(v-a) The licensee shall, without delay, report to the State Government the discovery, in the area comprised in his license, of any mineral not specified in the license, and shall not undertake any prospecting operations in respect of such mineral without obtaining permission of the State Government for inclusion thereof in the license. If he fails to apply for such permission within three months from the discovery of the mineral the State Government may give licence in respect of such mineral to any other person.”

(2) *After* item (ix) of sub-rule (2), *add* the following item, namely:—

“(x) Facilities to be given by the licensee for working other minerals in the licensed area or adjacent areas.”

ADDENDA (2A)

THE INDUSTRIAL DISPUTES ACT, 1947.

[As amended by the Industrial Disputes (Amendment and Miscellaneous Provisions) Act 36 of 1956* and by the Industrial Disputes (Amendment) Act 41 of 1956]

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* As regards savings, etc., the Amendment Act (36 of 1956) in sections 20 and 31 thereof provides as follows:—

"30. *Savings as to proceedings pending before Tribunals.*—If, immediately before the commencement of this Act, there is pending any proceeding in relation to an industrial dispute before a Tribunal constituted under the Industrial Disputes Act, 1947 (14 of 1947), as in force before such commencement, the dispute may be adjudicated and the proceeding disposed of by that Tribunal after such commencement, as if this Act had not been passed.

31. *Act not to override State law.*—(1) If, immediately before the commencement of this Act, there is in force in any State any Provincial Act or State Act relating to the settlement or adjudication of disputes, the operation of such an Act in that State in relation to matters covered by that Act shall not be affected by the Industrial Disputes Act, 1947 (14 of 1947) as amended by this Act.

(2) For the removal of doubts it is hereby declared that nothing in this section shall be deemed to preclude the Central Government or the National Tribunal from exercising any powers conferred on it by the Industrial Disputes Act, 1947 as amended by this Act." Sec. 31 of Act 36 of 1956 was brought into force on 7-10-56; vide Notification No., S.R.O. 2277, d/- 5-10-56, pub. in Gazette of India, Extraordinary, d/- 6-10-56, Pt. II-Sec. 3, p. 2035.

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THE INDUSTRIAL DISPUTES ACT, 1947.

ACT XIV OF 1947.

[11th March, 1947.]

An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.

WHEREAS it is expedient to make provision for the investigation and settlement of industrial disputes and for certain other purposes hereinafter appearing;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called THE INDUSTRIAL DISPUTES ACT, 1947.

¹[(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to industrial disputes concerning workmen employed under the Government of India.]

(3) It shall come into force on the first day of April, 1947.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context—

(a) 'appropriate Government' means—

(i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, or by a railway company or concerning any such controlled industry as may be specified in this behalf by the Central Government or in relation to an industrial dispute concerning a banking or an insurance company, a mine, an oilfield or a major port, the Central Government, and

(ii) in relation to any other industrial dispute, the State Government;

(aa) 'average pay' means the average of the wages payable to a workman—

(i) in the case of monthly paid workman, in the three complete calendar months,

(ii) in the case of weekly paid workman, in the four complete weeks,

(iii) in the case of daily paid workman, in the twelve full working days,

¹Substituted for former sub-sec. (2) by The Industrial Disputes (Amendment and Miscellaneous Provisions) Act 36 of 1956, sec. 2. This amendment came into force on 29-8-56; vide Ministry of Labour Notification No. S.R.O. 1934, d/- 23-8-56, published in Gazette of India, Extraordinary, d/- 29-8-56, Pt. II-Sec. 3, p. 1785.

preceding the date on which the average pay becomes payable if the workman had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a workman during the period he actually worked;

²[(b) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Tribunal and includes an arbitration award made under section 10A;]

(bb) 'banking company' means a banking company as defined in section 5 of the Banking Companies Act, 1949 (X of 1949) having branches or other establishments in more than one State, and includes the ³[State Bank of India and the Reserve Bank of India];

(c) 'Board' means a Board of Conciliation constituted under this Act;

(d) 'conciliation officer' means a conciliation officer appointed under this Act;

(e) 'conciliation proceeding' means any proceeding held by a conciliation officer or Board under this Act;

(ee) 'controlled industry' means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;

(eee) 'continuous service' means uninterrupted service, and includes service which may be interrupted merely on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(f) 'Court' means a Court of inquiry constituted under this Act;

(g) 'employer' means—

(i) in relation to an industry carried on by or under the authority of any department of the Central Government or a State Government the authority prescribed in this behalf, or where no authority is prescribed the head of the department,

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority;

⁴[* * * *]

(i) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Board, Court or Tribunal, if he is unconnected with the industrial dispute referred to such Board, Court or Tribunal or with any industry directly affected by such dispute;

Provided that no person shall cease to be independent by reason only of the fact that he is a shareholder of an incorporated company which is connected with, or likely to be affected by, such industrial dispute; but in

² Substituted for former cl. (b) by Act 36 of 1956.

³ Substituted for "Imperial Bank of India" by *ibid.* This amendment came into force on 29-8-56; vide Notification No. S.R.O. 1934, d/- 28-8-56.

⁴ Cl. (h) defining "Federal Railway" omitted by L.A.O., 1950.

such a case, he shall disclose to the appropriate Government the nature and extent of the shares held by him in such company;

(j) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;

(k) "industrial dispute" means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

(kk) "insurance company" means an insurance company as defined in section 2 of the Insurance Act 1938 (IV of 1938) having branches or other establishments in more than one State;

[(kka) "Labour Court" means a Labour Court constituted under section 7;]

(kkk) "lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the breakdown of machinery or for any other reason to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched;

Explanation.—Every workman whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

Provided that if the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day:

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day;

(l) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him;

[(ll) "National Tribunal" means a National Industrial Tribunal constituted under section 7B;]

(m) "prescribed" means prescribed by rules made under this Act;

(n) "public utility service" means—

(i) any railway service;

¹ Inserted by Act 30 of 1956. This amendment came into force on 29-2-56; vide Notification No. S.R.O. 1954, d/- 28-2-56.

² Inserted by *ibid.*

(ii) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends;

(iii) any postal, telegraph or telephone service;

(iv) any industry which supplies power, light or water to the public;

(v) any system of public conservancy or sanitation;

(vi) any industry specified in the Schedule which the appropriate Government may, if satisfied that public emergency or public interest so requires, by notification in the official Gazette declare to be a public utility service for the purposes of this Act, for such period as may be specified in the notification:

Provided that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time to time, by any period not exceeding six months, at any one time if in the opinion of the appropriate Government public emergency or public interest requires such extension.

(a) 'railway company' means a railway company as defined in section 3 of the Indian Railway Act, 1890;

(aa) 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(c) termination of the service of a workman on the ground of continued ill-health;

[(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to the appropriate Government and the conciliation officer;]

(q) 'strike' means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment;

(r) 'Tribunal' means an Industrial Tribunal constituted *[under section 7A:]

(rr) 'wages' means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes—

(i) such allowances (including dearness allowance) as the workman is for the time being entitled to;

* Substituted for former cl. (p) by Act 36 of 1956, sec. 3 (e). This amendment came into force on 7-10-56; vide Notification No. S.R.O. 2277, d/- 5-10-56.

* Substituted for "under this Act" by *ibid*, sec. 3 (f).

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;

(iii) any travelling concession;
but does not include—

(a) any bonus;

(b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;

(c) any gratuity payable on the termination of his service;

*[(d) 'workman' means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Army Act, 1950 (46 of 1950), or the Air Force Act, 1950 (45 of 1950) or the Navy Discipline Act, 1934 (34 of 1934); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]

CHAPTER II.

AUTHORITY UNDER THIS ACT.

3. *Works Committee*.—(1) In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926.

* Substituted for former cl. (d) by Act 18 of 1956, sec. 2 (g).

(2) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

4. *Conciliation officers.*—(1) The appropriate Government may, by notification in the official Gazette, appoint such number of persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

5. *Board of Conciliation.*—(1) The appropriate Government may as occasion arises by notification in the official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit.

(3) The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent the party shall be appointed on the recommendation of that party:

Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that if the appropriate Government notifies the Board that the services of the chairman or of any other member have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

6. *Court of Inquiry.*—(1) The appropriate Government may as occasion arises by notification in the official Gazette constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

(2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that, if the appropriate Government notifies the Court that the services of the chairman have ceased to be available, the Court shall not act until a new chairman has been appointed.

7. Labour Courts.—(1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.

(2) A Labour Court shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Labour Court, unless—

(a) he has held any judicial office in India for not less than seven years; or

(b) he has been the presiding officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years.

7A. Tribunals.—(1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule.

(2) A Tribunal shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless—

(a) he is, or has been, a Judge of a High Court; or

(b) he has held the office of the Chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950 (48 of 1950), or of any Tribunal, for a period of not less than two years.

(4) The appropriate Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.

7B. National Tribunals.—(1) The Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

(2) A National Tribunal shall consist of one person only to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the presiding officer of a National Tribunal unless—

(a) he is, or has been, a judge of a High Court; or

(b) he has held the office of the Chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950 (48 of 1950), for a period of not less than two years.

(4) The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

¹ Secs. 7, 7A, 7B & 7C substituted for former sec. 7 by Act 26 of 1956, sec. 2.

7C. Disqualifications for the presiding officers of Labour Courts, Tribunals and National Tribunals.—No person shall be appointed to, or continue in, the office of the presiding officer of a Labour Court, Tribunal or National Tribunal, if—

- (a) he is not an independent person; or
- (b) he has attained the age of sixty-five years.]

²[**8. Filling of vacancies.**—If, for any reason a vacancy (other than a temporary absence) occurs in the office of the presiding officer of a Labour Court, Tribunal or National Tribunal or in the office of the Chairman or any other member of a Board or Court, then, in the case of a National Tribunal, the Central Government and in any other case, the appropriate Government, shall appoint another person in accordance with the provisions of this Act to fill the vacancy, and the proceeding may be continued before the Labour Court, Tribunal, National Tribunal, Board or Court, as the case may be, from the stage at which the vacancy is filled.]

³[**9. Finality of orders constituting Boards, etc.**—(1) No order of the appropriate Government or of the Central Government appointing any person as the Chairman or any other member of a Board or Court or as the presiding officer of a Labour Court, Tribunal or National Tribunal shall be called in question in any manner; and no act or proceeding before any Board or Court shall be called in question in any manner on the ground merely of the existence of any vacancy in, or defect in the constitution of, such Board or Court.

(2) No settlement arrived at in the course of a conciliation proceeding shall be invalid by reason only of the fact that such settlement was arrived at after the expiry of the period referred to in sub-section (6) of section 12 or sub-section (5) of section 13, as the case may be.

(3) Where the report of any settlement arrived at in the course of conciliation proceeding before a Board is signed by the chairman and all other members of the Board, no such settlement shall be invalid by reason only of the casual or unforeseen absence of any of the members (including the Chairman) of the Board during any stage of the proceeding.]

*[CHAPTER IIA.

Notice of change.

9A. Notice of change.—No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,—

(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within twenty-one days of giving such notice:

¹ Substituted for former sec. 8 by Act 56 of 1956, sec. 5.

² Substituted for former sec. 9 by *ibid*, sec. 5.

³ Inserted by *ibid*, sec. 6.

Provided that no notice shall be required for effecting any such change—

(a) where the change is effected in pursuance of any settlement, award or decision of the Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950 (48 of 1950); or

(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.

9B. Power of Government to exempt.—Where the appropriate Government is of opinion that the application of the provisions of section 9A to any class of industrial establishments or to any class of workmen employed in any industrial establishment affect the employers in relation thereto so prejudicially that such application may cause serious repercussion on the industry concerned and that public interest so requires, the appropriate Government may, by notification in the Official Gazette, direct that the provisions of the said section shall not apply or shall apply, subject to such conditions as may be specified in the notification, to that class of industrial establishments or to that class of workmen employed in any industrial establishment.]

CHAPTER III.

REFERENCE OF DISPUTES TO BOARDS, COURTS OR TRIBUNALS.

10. Reference of disputes to Boards, Courts or Tribunals.—(1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time, by order in writing

(a) refer the dispute to a Board for promoting a settlement thereof; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or

¹[(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or

(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication;

Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred workmen,

¹ Substituted for former cl. (c) by Act 36 of 1956, sec. 7 (a) (i).

the appropriate Government may, if it so thinks fit, make the reference to a Labour Court under clause (c).]

"[Provided further that] where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced.

"[(1d)] Where the Central Government is of opinion that any industrial dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute and that the dispute should be adjudicated by a National Tribunal, then, the Central Government may, whether or not it is the appropriate Government in relation to that dispute, at any time, by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a National Tribunal for adjudication.]

(2) Where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court, ¹[Labour Court, Tribunal or National Tribunal] the appropriate Government, if satisfied that the persons applying represent the majority of each party shall make the reference accordingly.

(3) Where an industrial dispute has been referred to a Board ²[Labour Court, Tribunal or National Tribunal] under this section, the appropriate Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

(4) Where in an order referring an industrial dispute to ³[a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, ⁴[the Labour Court or the Tribunal or the National Tribunal, as the case may be] shall confine its adjudication to those points and matters incidental thereto.

(5) Where a dispute concerning any establishment or establishments has been, or is to be, referred to a ⁵[Labour Court, Tribunal or National Tribunal] under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter but before submission of the award,

¹ Substituted for "Provided that" by *ibid*, sec. 7 (a) (ii).

² Inserted by Act 36 of 1956, sec. 7 (b).

³ Substituted for "or Tribunal" by *ibid*, sec. 7 (c).

⁴ Substituted for "a Tribunal" by Act 36 of 1956, sec. 7 (d) (i).

⁵ Substituted for "the Tribunal" by *ibid*, sec. 7 (d) (ii).

⁶ Substituted for "Tribunal" by *ibid*, sec. 7 (e).

include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments.

“(6) Where any reference has been made under sub-section (1A) to a National Tribunal, then notwithstanding anything contained in this Act, no Labour Court or Tribunal shall have jurisdiction to adjudicate upon any matter which is under adjudication before the National Tribunal, and accordingly,—

(a) if the matter under adjudication before the National Tribunal is pending in a proceeding before a Labour Court or Tribunal, the proceeding before the Labour Court or the Tribunal, as the case may be, in so far as it relates to such matter, shall be deemed to have been quashed on such reference to the National Tribunal; and

(b) it shall not be lawful for the appropriate Government to refer the matter under adjudication before the National Tribunal to any Labour Court or Tribunal for adjudication during the pendency of the proceeding in relation to such matter before the National Tribunal.

(7) Where any industrial dispute, in relation to which the Central Government is not the appropriate Government, is referred to a National Tribunal, then notwithstanding anything contained in this Act, any reference in section 15, section 17, section 19, section 33A, section 33B and section 36A to the appropriate Government in relation to such dispute shall be construed as a reference to the Central Government but, save as aforesaid and as otherwise expressly provided in this Act, any reference in any other provision of this Act to the appropriate Government in relation to that dispute shall mean a reference to the State Government.]

“[10A. *Voluntary reference of disputes to arbitration.*—(1) Where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

(2) An arbitration agreement referred to in sub-section (1) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

(3) A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer and the appropriate Government shall, within fourteen days from the date of the receipt of such copy, publish the same in the Official Gazette.

(4) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

¹ Inserted by Act 36 of 1956, sec. 7(f).

² Inserted by *ibid*, sec. 8.

(5) Nothing in the Arbitration Act, 1940 (10 of 1940) shall apply to arbitrations under this section.]

CHAPTER IV.

PROCEDURE, POWERS AND DUTIES OF AUTHORITIES.

11. Procedure and Powers of Conciliation Officers, Boards, Courts and Tribunals.—¹[(1) Subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think fit.]

(2) A conciliation officer or a member of a Board, ²[or Court or the presiding officer of a Labour Court, Tribunal or National Tribunal] may, for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(3) Every Board, Court ³[Labour Court, Tribunal or National Tribunal] shall have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents and material objects;

(c) issuing commissions for the examination of witnesses;

(d) in respect of such other matters as may be prescribed;

and every inquiry or investigation by a Board, Court ⁴[Labour Court, Tribunal or National Tribunal] shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

(4) A conciliation officer may call for and inspect any document which he has ground for considering to be relevant to the industrial dispute ⁵[or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Act, and for the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of compelling the production of documents.]

¹[(5) A Court, Labour Court, Tribunal or National Tribunal may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessor or assessors to advise it in the proceeding before it.]

¹ Substituted for former sub-sec. (1) by Act 36 of 1956, sec. 9 (a).

² Substituted for "Court or Tribunal" by *ibid*, sec. 9 (b).

³ Substituted for "and Tribunal" by *ibid*, sec. 9 (c) (i).

⁴ Substituted for "or Tribunal" by Act 36 of 1956, sec. 9 (c) (ii).

⁵ Added by *ibid*, sec. 9 (d). This amendment came into force on 17-9-56; vide Notification No. S.R.O. 2074, d/- 10-9-56, pub. in Gazette of India, d/- 15-9-56, Pt. II-Sec. 3, p. 1358.

¹ Substituted for former sub-sec. (5) by *ibid*, sec. 9 (e).

2[(6) All conciliation officers, members of a Board or Court and the presiding officers of a Labour Court, Tribunal or National Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(7) Subject to any rules made under this Act, the costs of, and incidental to, any proceeding before a Labour Court, Tribunal or National Tribunal shall be in the discretion of that Labour Court, Tribunal or National Tribunal and the Labour Court, Tribunal or National Tribunal, as the case may be, shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the appropriate Government by the person entitled, be recovered by that Government in the same manner as an arrear of land revenue.]

(8) Every ³[Labour Court, Tribunal or National Tribunal] shall be deemed to be a civil Court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

12. *Duties of conciliation officers.*—(1) Where any industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall, hold conciliation proceedings in the prescribed manner.

(2) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute without delay investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the conciliation officer shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in sub-section (4), the appropriate Government is satisfied that there is a case for reference to a Board, ⁴[Labour Court, Tribunal or National Tribunal] it may make such reference. Where the appropriate Government does not make such a reference it shall record and communicate to the parties concerned its reasons therefor.

¹ Substituted for former sub-secs. (6) and (7) by Act 36 of 1956, sec. 9(f).

² Substituted for "Tribunal" by *ibid.*, sec. 9(g).

³ Substituted for "or Tribunal" by *ibid.*, sec. 10 (a).

(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.

[Provided that the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute.]

13. Duties of Boards.—(1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) If, on the receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, the appropriate Government does not make a reference to a * [Labour Court, Tribunal or National Tribunal] under section 10, it shall record and communicate to the parties concerned its reasons therefor.

(5) The Board shall submit its report under this section within two months of the date on which the dispute was referred to it or within such shorter period as may be fixed by the appropriate Government:

Provided that the appropriate Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate:

Provided further that the time for the submission of the report may be extended by such periods as may be agreed on in writing by all the parties to the dispute.

14. Duties of Courts.—A Court shall inquire into the matters referred to it and report thereon to the appropriate Government ordinarily within a period of six months from the commencement of its inquiry.

* Added by Act 36 of 1956, sec. 10 (b). This amendment came into force on 17-9-56; vide Notification S.R.O. 2074, d/- 10-9-56.

* Substituted for "Tribunal" by *ibid*, sec. 11.

15. Duties of Labour Courts, Tribunals and National Tribunals.—Where an industrial dispute has been referred to a Labour Court, Tribunal or National Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as it is practicable on the conclusion thereof, submit its award to the appropriate Government.

16. Form of report or award.—(1) The report of a Board or Court shall be in writing and shall be signed by all the members of the Board or Court, as the case may be:

Provided that nothing in this section shall be deemed to prevent any member of the Board or Court from recording any minute of dissent from a report or from any recommendation made therein.

(2) The award of a Labour Court or Tribunal or National Tribunal shall be in writing and shall be signed by its presiding officer.

17. Publication of reports and awards.—(1) Every report of a Board or Court together with any minute of dissent recorded therewith, every arbitration award and every award of a Labour Court, Tribunal or National Tribunal shall, within a period of thirty days from the date of its receipt by the appropriate Government, be published in such manner as the appropriate Government thinks fit.

(2) Subject to the provisions of section 17A, the award published under sub-section (1) shall be final and shall not be called in question by any court in any manner whatsoever.

17A. Commencement of the award.—(1) An award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication under section 17:

Provided that—

(a) if the appropriate Government is of opinion, in any case where the award has been given by a Labour Court or Tribunal in relation to an industrial dispute to which it is a party; or

(b) if the Central Government is of opinion, in any case where the award has been given by a National Tribunal, that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(2) Where any declaration has been made in relation to an award under the proviso to sub-section (1), the appropriate Government or the Central Government may, within ninety days from the date of publication of the award under section 17, make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government.

¹ Substituted for former secs. 15, 16, 17 and 17A by Act 36 of 1956, sec. 10.

(3) Where any award as rejected or modified by an order made under sub-section (2) is laid down before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (2) is made in pursuance of a declaration under the proviso to sub-section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (2).

(4) Subject to the provisions of sub-section (1) and sub-section (3) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (1) or sub-section (3), as the case may be.]

18. Persons on whom settlements and awards are binding.—

[(1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

(2) An arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.]

[3] A settlement arrived at in the course of conciliation proceedings under this Act or an award ¹[of a Labour Court, Tribunal or National Tribunal] which has become enforceable shall be binding on—

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board ²[Labour Court, Tribunal or National Tribunal] as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (c) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

19. Period of operation of settlements and awards.—(1) A settlement ³[*****] shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

¹ Inserted by Act 36 of 1936, sec. 13 (a). This amendment came into force on 7-10-36; vide Notification No. S.R.O. 2277 d/- 5-10-36.

² Sec. 13 re-numbered as sub-section (3) thereof by *ibid.*, sec. 13.

³ Inserted by *ibid.*, sec. 13 (b) (i).

⁴ Substituted for "or Tribunal" by Act 36 of 1936, sec. 13 (b) (ii).

⁵ Certain word omitted by *ibid.*, sec. 14 (a). This amendment came into force on 7-10-36; vide Notification No. S.R.O. 2277 d/- 5-10-36.

(2) Such settlement shall be binding for such period as is agreed upon by the parties; and if no such period is agreed upon, for a period of six months ²[from the date on which the memorandum of settlement is signed by the parties to the dispute], and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

(3) An award shall, subject to the provisions of this section, remain in operation for a period of one year ³[from the date on which the award becomes enforceable under section 17A]:

Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit:

Provided further that the appropriate Government may, before the expiry of the said period, extend the period of operation by any period not exceeding one year at a time as it thinks fit, so however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(4) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since the award was made, there has been a material change in the circumstances on which it was based, the appropriate Government may refer the award or a part of it ⁴[to a Labour Court, if the award was that of a Labour Court or to a Tribunal, if the award was that of a Tribunal or of a National Tribunal], for decision whether the period of operation should not, by reason of such change, be shortened and the decision of ⁵[Labour Court or the Tribunal, as the case may be], on such reference shall, ⁶[*****], be final.

(5) Nothing contained in sub-section (3) shall apply to an award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by the award.

(6) Notwithstanding the expiry of the period of operation under sub-section (3), the award shall continue to be binding on the parties until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

⁷[*****]

² Inserted by *ibid.*, sec. 14 (b). This amendment came into force on 7-10-56; vide Notification No. S.R.O. 2277 d/- 5-10-56.

³ Inserted by *ibid.*, sec. 14 (c). This amendment came into force on 17-9-56; vide Notification No. S.R.O. 2074 d/- 10-9-56.

⁴ Substituted for "to a Tribunal" by *ibid.*, sec. 14 (d) (i).

⁵ Substituted for "the Tribunal" by *ibid.*, sec. 14 (d) (ii).

⁶ Certain words omitted by *ibid.*, sec. 14 (d) (iii).

⁷ Sub-sec. (7) omitted by *ibid.*, sec. 14 (e). This amendment came into force on 17-9-56; vide Notification No. S.R.O. 2074 d/- 10-9-56.

20. Commencement and conclusion of proceedings.—(1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the conciliation officer or on the order referring the dispute to a Board, as the case may be.

(2) A conciliation proceeding shall be deemed to have concluded—

(a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;

(b) where no settlement is arrived at, when the report of the conciliation officer is received by the appropriate Government or when the report of the Board is published under section 17, as the case may be, or

(c) when a reference is made to a Court ¹[Labour Court, Tribunal or National Tribunal], under section 10 during the pendency of conciliation proceedings.

(3) Proceedings ²[before an arbitrator under section 10A or before a Labour Court, Tribunal or National Tribunal] shall be deemed to have commenced on the date of the ³[reference of the dispute for arbitration or adjudication, as the case may be] and such proceedings shall be deemed to have concluded on the date on which the award becomes enforceable under section 17-A.

21. Certain matters to be kept confidential.—There shall not be included in any report or award under this Act any information obtained by a conciliation officer, Board, Court ⁴[Labour Court, Tribunal, National Tribunal or an arbitrator] in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such officer, Board, Court ⁴[Labour Court, Tribunal, National Tribunal or arbitrator], if the trade union, person, firm or company, in question has made a request in writing to the conciliation officer, Board, Court ⁵[Labour Court, Tribunal, National Tribunal or arbitrator], as the case may be, that such information shall be treated as confidential; nor shall such conciliation officer or any individual member of the Board, ⁶[or Court or the presiding officer of the Labour Court, Tribunal or National Tribunal or the arbitrator] or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be:

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code.

¹ Substituted for "or Tribunal" by Act 36 of 1956, sec. 15(a).

² Substituted for "before a Tribunal" by *ibid.*, sec. 15(b)(i).

³ Substituted for "reference of a dispute for adjudication" by *ibid.*, sec. 15(b)(ii).

⁴ Substituted for "or Tribunal" by *ibid.*, sec. 16(a).

⁵ Substituted for "or Tribunal" by *ibid.*, sec. 16(b).

⁶ Substituted for "Court or Tribunal" by *ibid.*, sec. 16(c).

CHAPTER V.

STRIKES AND LOCK-OUTS.

22. *Prohibition of strikes and lock-outs.*—(1) No person employed in a public utility service shall go on strike in breach of contract—

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock-out any of his workmen—

(a) without giving them notice of lock-out as hereinafter provided, within six weeks before locking out; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out in the utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe the number of such notices received or given on that day.

23. *General prohibition of strikes and lock-out.*—No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out—

(a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;

(b) during the pendency of proceedings before ¹[a Labour Court, Tribunal or National Tribunal] and two months after the conclusion of such proceedings; or

¹ Substituted for "a Tribunal" by Act 36 of 1956, sec. 17.

(c) during any period in which a settlement or award is in operation in respect of any of the matters covered by the settlement or award.

24. *Illegal strikes and lock-outs.*—(1) A strike or a lock-out shall be illegal if—

(i) it is commenced or declared in contravention of section 22 or section 23; or

(ii) it is continued in contravention of an order made under sub-section (3) of section 10.

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, ^a[Labour Court, Tribunal or National Tribunal], the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10.

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

25. *Prohibition of financial aid to illegal strikes and lock-outs.*—No person shall knowingly expend or apply any money in direct furtherance or support of any illegal strike or lock-out.

CHAPTER VA.

LAY-OFF AND RETRENCHMENT.

25-A. *Application of sections 25C to 25E.*—(1) Sections 25C to 25E inclusive shall not apply—

(a) to industrial establishments in which less than fifty workmen on an average per working day have been employed in the preceding calendar month; or

(b) to industrial establishments which are of a seasonal character or in which work is performed only intermittently.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

Explanation.—In this section and in sections 25-C, 25-D and 25-E, 'industrial establishment' means—

(i) a factory as defined in clause (aa) of section 2 of the Factories Act, 1948 (LXIII of 1948); or

(ii) a mine as defined in clause (j) of section 2 of the Mines Act, 1952 (XXXV of 1952); or

(iii) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (LXIX of 1951).

^a Substituted for "or Tribunal" by Act 36 of 1956, sec. 18.

25B. Definition of one year of continuous service.—For the purposes of sections 25C and 25F, a workman who, during a period of twelve calendar months, has actually worked in an industry for not less than two hundred and forty days shall be deemed to have completed one year of continuous service in the industry.

Explanation.—In computing the number of days on which a workman has actually worked in an industry, the days on which—

(a) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), or under this Act or under any other law applicable to the industrial establishment, the largest number of days during which he has been so laid-off being taken into account for the purposes of this clause;

(b) he has been on leave with full wages, earned in the previous year; and

(c) in the case of a female, she has been on maternity leave; so however that the total period of such maternity leave shall not exceed twelve weeks,

shall be included.

25C. Right of workmen laid-off for compensation.—⁸⁸[1] Whenever a workman (other than a *badli* workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him had he not been so laid-off:

⁸⁹[Provided that compensation payable to a workman during any period of twelve months shall not be for more than forty-five days.]

Explanation.—“*Badli* workman” means a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster rolls of the establishment, but shall cease to be regarded as such for the purposes of this section, if he has completed one year of continuous service in the establishment.

⁹⁰[(2) Notwithstanding anything contained in the proviso to sub-section (1), if during any period of twelve months, a workman is laid off for more than forty-five days, whether continuously or intermittently, and the lay off after the expiry of the first forty-five days comprises continuous periods of one week or more, the workman shall, unless there is any agreement to the contrary between him and the employer, be paid for all the days comprised in every such subsequent period of lay off for one week or more compensation at the rate specified in sub-section (1):

⁸⁸ See 25C re-numbered as sub-sec. (1) thereof by the Industrial Disputes (Am.) Act 42 of 1955.

⁸⁹ Substituted for the former provisos by *ibid.*

⁹⁰ Inserted by *ibid.*

Provided that it shall be lawful for the employer in any case falling within this sub-section to retrench the workman in accordance with the provisions contained in section 25F at any time after the expiry of the first forty-five days of lay off and when he does so, any compensation paid to the workman for having been laid off during the preceding twelve months may be set off against the compensation payable for retrenchment.]

25D. *Duty of an employer to maintain muster rolls of workmen.*—Notwithstanding that workmen in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purpose of this Chapter a muster roll, and to provide for the making of entries therein by workmen who may present themselves for work at the establishment at the appointed time during normal working hours.

25E. *Workmen not entitled to compensation in certain cases.*—No compensation shall be paid to a workman who has been laid-off—

(i) if he refuses to accept any alternative employment in the same establishment from which he has been laid-off, or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of five miles from the establishment to which he belongs, if, in the opinion of the employer, such alternative employment does not call for any special skill or previous experience and can be done by the workman, provided that the wages which would normally have been paid to the workman are offered for the alternative employment also;

(ii) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;

(iii) if such laying-off is due to a strike or slowing-down of production on the part of workmen in another part of the establishment.

25F. *Conditions precedent to retrenchment of workmen.*—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of notice;

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service;

(b) the workman has been paid at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government.

25FF. *Special provision relating to workmen employed in undertakings which are transferred.*—Notwithstanding anything contained in section 25F, no workman shall be entitled to compensation under that

^{3d}Inserted by the Industrial Disputes (Am.) Act 41 of 1956.

section by reason merely of the fact that there has been a change of employers in any case where the ownership or management of the undertaking in which he is employed is transferred, whether by agreement or by operation of law, from one employer to another:

Provided that—

(a) the service of the workman has not been interrupted by reason of the transfer;

(b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer; and

(c) the employer to whom the ownership or management of the undertaking is so transferred is, under the terms of the transfer or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.]

25G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

25H. Re-employment of retrenched workmen.—Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen to offer themselves for re-employment, and the retrenched workmen who offer themselves for re-employment shall have preference over other persons.

***25I. [Recovery of moneys due from employers under this Chapter.]**
Repealed by Act 36 of 1956, sec. 19.

25J. Effect of laws inconsistent with this Chapter.—(1) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law [including standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946)]:

Provided that nothing contained in this Act shall have effect to detract from any right which a workman has under the Minimum Wages Act, 1948 (XI of 1948) or any notification or order issued thereunder or any award for the time being in operation or any contract with the employer.

(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workmen in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter.

* Section 25I omitted by Act 36 of 1956, sec. 19.

CHAPTER VI.

PENALTIES.

26. *Penalty for illegal strikes and lock-outs.*—(1) Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees, or with both.

27. *Penalty for instigation, etc.*—Any person who instigates, or incites others to take part in, or otherwise acts in furtherance of a strike or lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

28. *Penalty for giving financial aid to illegal strikes and lock-outs.*—Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. *Penalty for breach of settlement or award.*—Any person who commits a breach of any term of any settlement or award, which is binding on him under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such breach.]

30. *Penalty for disclosing confidential information.*—Any person who wilfully discloses any such information as is referred to in section 21 in contravention of the provisions of that section shall, on complaint made by or on behalf of the trade union or individual business affected, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

31. *Penalty for other offences.*—(1) Any employer who contravenes the provisions of section 33 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

Substituted for former sec. 29 by Act 36 of 1956, sec. 20. This amendment came into force on 17-9-56; vide Notification No. 2074 d/- 10-9-56.

CHAPTER VII.

MISCELLANEOUS.

32. *Offences by companies, etc.*—Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

²[33. *Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.*—(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute,

save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute,—

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute—

(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman.

²Substituted for former sec. 31 by Act 36 of 1956, sec. 21.

save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.—For the purposes of this sub-section, a 'protected workman', in relation to an establishment, means a workman who, being an officer of a registered trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognised as protected workmen for the purposes of sub-section (3) shall be one per cent. of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, as expeditiously as possible, such order in relation thereto as it deems fit.]

33A. *Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings.*—Where an employer contravenes the provisions of section 33 during the pendency of proceedings before a ¹[Labour Court, Tribunal or National Tribunal], any employee aggrieved by such contravention, may make a complaint in writing, in the prescribed manner to such ²[Labour Court, Tribunal or National Tribunal] and on receipt of such complaint that ³[Labour Court, Tribunal or National Tribunal] shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit its award to the appropriate Government and the provisions of this Act shall apply accordingly.

⁴[**33B.** *Power to transfer certain proceedings.*—(1) The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Act pending before a Labour Court, Tribunal, or National Tribunal and transfer the same to another Labour Court, Tribunal or National Tribunal, as the case may be, for the disposal of the proceeding and the Labour Court, Tribunal or National Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either *de novo* or from the stage at which it was so transferred:

Provided that where a proceeding under section 33 or section 33A is pending before a Tribunal or National Tribunal, the proceeding may also be transferred to a Labour Court.

(2) Without prejudice to the provisions of sub-section (1), any Tribunal or National Tribunal, if so authorised by the appropriate Government, may transfer any proceeding under section 33 or section 33A

¹Substituted for "Tribunal" by Act 36 of 1956, Sec. 22.

²Inserted by Act 36 of 1956, sec. 23.

pending before it to any one of the Labour Courts specified for the disposal of such proceedings by the appropriate Government by notification in the Official Gazette and the Labour Court to which the proceeding is so transferred shall dispose of the same.

33C. Recovery of money due from an employer.—(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter VA, the workman may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue.

(2) Where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the amount at which such benefit should be computed may, subject to any rules that may be made under this Act, be determined by such Labour Court as may be specified in this behalf by the appropriate Government, and the amount so determined may be recovered as provided for in sub-section (1).

(3) For the purposes of computing the money value of a benefit, the Labour Court may, if it so thinks fit, appoint a commissioner who shall, after taking such evidence as may be necessary, submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the commissioner and other circumstances of the case.]

34. Cognizance of offences.—(1) No Court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government.

(2) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

35. Protection of persons.—(1) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act, shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to

membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

36. Representation of parties.—(1) A workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by—

(a) an officer of a registered trade union of which he is a member;

(b) an officer of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;

(c) where the worker is not a member of any trade union, by an officer of any trade union connected with, or by any other workman employed in, the industry in which the worker is employed and authorised in such manner as may be prescribed.

(2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by—

(a) an officer of an association of employers of which he is a member;

(b) an officer of a federation of associations of employers to which the association referred to in clause (a) is affiliated;

(c) where the employer is not a member of any association of employers, by an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act or in any proceedings before a Court.

(4) In any proceeding¹ [before a Labour Court, Tribunal or National Tribunal], a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and² [with the leave of the Labour Court, Tribunal or National Tribunal, as the case may be.]

[**36A. Power to remove difficulties.**—(1) If, in the opinion of the appropriate Government, any difficulty or doubt arises as to the interpretation of any provision of an award or settlement, it may refer the question to such Labour Court, Tribunal or National Tribunal as it may think fit.

(2) The Labour Court, Tribunal or National Tribunal to which such question is referred shall, after giving the parties an opportunity of being heard, decide such question and its decision shall be final and binding on all such parties.]

37. Protection of action taken under the Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

¹ Substituted for "before a Tribunal" by Act 36 of 1956, sec. 24(a).

² Substituted for "with the leave of the Tribunal" by *ibid.*, sec. 24(b).

³ Inserted by *ibid.*, sec. 25.

38. *Power to make rules.*—(1) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the powers and procedure of conciliation officers, Boards, Courts ¹[Labour Courts, Tribunals and National Tribunals] including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation, the number of members necessary to form a quorum and the manner of submission of reports and awards;

²[(aa) the form of arbitration agreement, the manner in which it may be signed by the parties, the powers of the arbitrator named in the arbitration agreement and the procedure to be followed by him;

(aai) the appointment of assessors in proceedings under this Act;]

(b) the constitution and functions of and the filling of vacancies in Works Committees, and the procedure to be followed by such committees in the discharge of their duties;

(c) the allowances admissible to members of Courts, ³[and Boards and presiding officers of Labour Courts, Tribunals and National Tribunals] and to assessors and witnesses;

(d) the ministerial establishment which may be allotted to a Court, Board ⁴[Labour Court, Tribunal or National Tribunal] and the salaries and allowances payable to members of such establishments;

(e) the manner in which and the persons by and to whom notice of strike or lock-out may be given and the manner in which such notices shall be communicated;

(f) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court ⁵[Labour Court, Tribunal or National Tribunal];

(g) any other matter which is to be or may be prescribed.

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

⁶[(4) All rules made under this section shall, as soon as possible after they are made, be laid before the State Legislature or, where the appropriate Government is the Central Government, before both Houses of Parliament.]

⁷[39. *Delegation of powers.*—The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by

¹ Substituted for "and Tribunals" by Act 36 of 1956, sec. 26 (a) (i).

² Inserted by Act 36 of 1956, sec. 26(a) (ii).

³ Substituted for "Boards and Tribunals" by *ibid*, sec. 26 (a) (iii).

⁴ Substituted for "or Tribunal" by *ibid*, sec. 26 (a) (iv).

⁵ Inserted by *ibid*, sec. 26 (b).

⁶ Substituted for former sec. 39 by Act 36 of 1956, sec. 27. This amendment came into force on 17-9-56; vide Notification No. S.R.O. 2074 d/- 10-9-56.

it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also,—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.]

*[40. *Power of Central Government to amend the Second and Third Schedules.*—The Central Government may, by notification in the Official Gazette, add to, alter or amend the Second Schedule or the Third Schedule and on any such notification being issued, the Second Schedule or the Third Schedule, as the case may be, shall be deemed to be amended accordingly and every such notification shall, as soon as possible after it is issued, be laid before both Houses of Parliament.]

*[THE FIRST SCHEDULE

[See section 2 (n) (vi)]

Industries which may be declared to be public utility services under sub-clause (vi) of clause (n) of section 2.

1. Transport (other than railways) for the carriage of passengers or goods, by land, water or air.
2. Banking.
3. Cement.
4. Coal.
5. Cotton textiles.
6. Foodstuffs.
7. Iron and steel.
8. Defence establishments.
9. Service in hospitals and dispensaries.
10. Fire Brigade service.

THE SECOND SCHEDULE

(See section 7)

Matters within the jurisdiction of Labour Courts.

1. The propriety or legality of an order passed by an employer under the standing orders;
2. The application and interpretation of standing orders;
3. Discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen wrongfully dismissed;
4. Withdrawal of any customary concession or privilege;
5. Illegality or otherwise of a strike or lock-out; and
6. All matters other than those specified in the Third Schedule.

*Inserted by Act 36 of 1956, sec. 28. The original sec. 40 was repealed by Act XXXV of 1950.

*The First, Second, Third and Fourth Schedules substituted for the former Schedule by *ibid.*, sec. 29.

THE THIRD SCHEDULE

(See section 7A)

Matters within the jurisdiction of Industrial Tribunals.

1. Wages, including the period and mode of payment;
2. Compensatory and other allowances;
3. Hours of work and rest intervals;
4. Leave with wages and holidays;
5. Bonus, profit sharing, provident fund and gratuity;
6. Shift working otherwise than in accordance with standing orders;
7. Classification by grades;
8. Rules of discipline;
9. Rationalisation;
10. Retrenchment of workmen and closure of establishments; and
11. Any other matter that may be prescribed.

THE FOURTH SCHEDULE

(See section 9A)

Conditions of service for change of which notice is to be given.

1. Wages, including the period and mode of payment;
2. Contribution paid, or payable, by the employer to any provident fund or pension fund or for the benefit of the workmen under any law for the time being in force;
3. Compensatory and other allowances;
4. Hours of work and rest intervals;
5. Leave with wages and holidays;
6. Starting, alteration or discontinuance of shift working otherwise than in accordance with standing orders;
7. Classification by grades;
8. Withdrawal of any customary concession or privilege or change in usage;
9. Introduction of new rules or discipline, alteration of existing rules, except in so far as they are provided in standing orders;
10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workmen;
11. Any increases or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift, not due to forced matters.]

The Coal Mines Labour Welfare Fund Rules, 1947

R. 21. (P. 46) In sub-rule (2), for the words "any new welfare and housing scheme" the words "any welfare and housing scheme" were substituted by Notification No. S.R.O. 1876, d/- 14-8-56, published in Gazette of India, d/- 25-8-56, Pt. II-Sec. 3, p. 1416.

The Coal Mines Provident Fund Scheme, 1948

Par. 63. [Pp. 124 & (ADD.) XXII] The following amendments were made by Notification No. S.R.O. 1766, d/- 30-7-56 (*vide* Gazette of India, d/- 4-8-56, Pt. II-Sec. 3, p. 1345), namely:—

- (a) at the end of cl. (a) of sub-para (1), omit "or";
- (b) omit the proviso to cl. (a) of sub-para (1);
- (c) omit the second proviso to sub-para (2):

(d) *renumber* sub-para (2A) as sub-para (2B), after sub-para (2), *read* the following sub-paragraph, namely:—

“(2A) When a member withdraws any amount under sub-paragraph (2), the following provisions shall apply, namely:—

(i) seventy-five per cent. of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of his membership of the Fund is less than 3 years; or

(ii) fifty per cent. of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is three years or more but less than 5 years; or

(iii) twenty-five per cent. of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is 5 years or more but less than 10 years; or

(iv) fifteen per cent. of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is 10 years or more but less than 15 years; or

(v) no forfeiture shall be made if the period of membership is 15 years or more;”

(e) in sub-para (3), for “sub-paragraph (2A)”, *read* “sub-paragraph (2B)”.

The Employees' Provident Funds Act, 1952

Sch. I (P. 241) The industries specified in the table below were added to Schedule I by the Central Government under sec. 4 of the Act with effect from 30th September, 1956 by Ministry of Labour Notification No. S.R.O. 2026, d/- 3-9-56, published in Gazette of India, d/- 8-9-56, Pt. II-Sec. 3, p. 1533, namely:—

TABLE

1. Heavy and fine chemicals, including—
 - (i) Fertilizers
 - (ii) Turpentine
 - (iii) Rosin
 - (iv) Medical and pharmaceutical preparations
 - (v) Toilet preparations
 - (vi) Soaps
 - (vii) Inks
 - (viii) Intermediates, dyes, colour lakes and toners and
 - (ix) Fatty acids
2. Indigo
3. Lac including shellac
4. Non-edible vegetable and animal oils and fats

The Employees' Provident Fund Scheme, 1952

Par. 1. (P. 244) In cl. (b) of sub-para (3), sub-cl. (ii) [see Addenda (2)] was renumbered as sub-cl. (iii) and the following new sub-cl. (ii) was inserted by Notification No. S.R.O. 2027, d/- 3-9-56, pub. in Gazette of India, d/- 8-9-56, Pt. II-Sec. 3, p. 1533, namely:—

"(ii) as respects factories relating to the industries added to Schedule I of the Act by notification of the Government of India in the Ministry of Labour S.R.O. 2026 dated 3rd September, 1956 come into force on the 30th day of September, 1956".

Par. 2. (P. 246) *After* cl. (k), cl. (kk) was added with effect from 31-7-56 by Notification No. S.R.O. 1660, d/- 21-7-56 (*vide* Gazette of India, *Extraordinary*, d/- 21-7-56, Pt. II-Sec. 3, p. 1691) and subsequently amended by Notification No. S.R.O. 2027, d/- 3-9-56. Cl. (kk) as amended is as follows:—

"(kk) 'Seasonal factory' means a factory which is exclusively engaged in the manufacture of tea, sugar, rubber, turpentine, rosin, indigo or lac."

Par. 26. (P. 254) (i) In sub-para (1) *after* the first proviso the following proviso was added by Notification No. S.R.O. 1660, d/- 21-7-56 with effect from 31-7-56, namely:—

"Provided further that, subject to a maximum of 240 days, in respect of a seasonal factory, an employee who, during the period a seasonal factory was in operation in a year, has actually worked in the factory for not less than 2/3rd of the period the factory was in operation in that year, shall be deemed to have completed one year's continuous service in the factory";

(ii) in the explanation, *for* "first proviso", *read* "first two provisos" (*vide ibid*).

Par. 29. (P. 256) *After* sub-para (4) the following *Explanation* was added by Notification No. S.R.O. 1660, d/- 21-7-56 with effect from 31-7-56, namely:—

"*Explanation.*—In respect of a seasonal factory the amount paid to an employee as retainers' allowance during the off-season, when the factory is not in operation shall be deemed to be wages for the purposes of this Scheme and be taken into account for calculating the contributions."

Par. 79. (P. 271) The words "on or before the 31st day of October, 1952" were omitted by Notification No. S.R.O. 2027, d/- 3-9-56.

The Employees' State Insurance Act, 1948

Dates on which certain Chapters of the Act came into force in certain areas in the States of Madhya Pradesh and Travancore-Cochin.

S. 1. (P. 281 & App. pp. XXVI-XXVII) In foot note 4 under sec. 1, at the end *read* the following:—

"The provisions of Chapter IV (except secs. 44 and 45 thereof already brought into force), Chapter V and Chapter VI (except sub-sec. (1) of sec. 76 and secs. 77, 78, 79 and 81 thereof already brought into force) were brought into force—

(1) on 2-9-56 in the area within the limits of Burhanpur Municipality in the State of Madhya Pradesh. (*Vide* Notification No. 1932, d/- 28-8-56, pub. in Gazette of India, *Extraordinary*, d/- 28-8-56, Pt. II-Sec. 3, p. 1781).

(2) on 16-9-56 in the following areas in the State of Travancore-Cochin, namely:—

I. The area within the Municipal limits of Quilon and the revenue villages of—

- (a) Quilon
- (b) Kilikolloor
- (c) Vadkkevila
- (d) Eravipuram

in the Quilon Taluk in the Quilon District

II. The area within the Municipal limits of Alleppey and the revenue villages of—

- (a) Alleppey
- (b) Aryad North
- (c) Aryad South
- (d) Mararikulam South

in the Ambalapuzha Taluk in the Quilon District

III. The areas within the Municipal limits of Ernakulam and Alwaye, and the revenue villages of—

- (a) Thrikkakara, and Vazhakulam in Kannathunad Taluk
- (b) Varapuzha
- (c) Kadungallur
- (d) Chengamannad

in the Parur Taluk in the Trichur District

IV. The area within the Municipal limits of Trichur and the revenue villages of—

- (a) Ollur
- (b) Marothakara
- (c) Trichur
- (d) Koorkkancherry
- (e) Aruattukara
- (f) Chiyaram
- (g) Vliyur
- (h) Peringavu
- (i) Ayyanthal

in the Trichur Taluk, and revenue village of Amballoor in Mukundapuram Taluk in Trichur District. (*Vide* Notification No. S.R.O. 2035, d/- 5-9-56, pub. in Gazette of India, Extraordinary, d/- 5-9-56, Pt. II-Sec. 3, pp. 1939-1940).

The Industrial Disputes (Appellate Tribunal) Act, 1950

(Pp. 540-551) The Act has been *repealed* by the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956), sec. 33, which runs as follows:—

"33. *Repeal of Act 28 of 1950 and saving.*—(1) The Industrial Disputes (Appellate Tribunal) Act, 1950 is hereby repealed.

(2) Notwithstanding such repeal—

(a) if, immediately before the commencement of this section, there is any appeal or other proceeding pending before the Appellate Tribunal constituted under the said Act, the appeal or other proceeding shall be decided and disposed of by the Appellate Tribunal as if the said Act had not been repealed by this Act;

(b) the provisions of sections 22, 23, 23A of the said Act shall, in relation to any proceeding pending before the Appellate Tribunal, be deemed to be continuing in force;

(c) any proceeding transferred to an industrial tribunal under section 23A shall be disposed of under the provisions of the Industrial Disputes Act, 1947 (14 of 1947).

and save as aforesaid, no appeal or other proceeding shall be entertained by the Appellate Tribunal after the commencement of this section, and every decision or order of the Appellate Tribunal, pronounced or made, before or after the commencement of this section, shall be enforced in accordance with the provisions of the said Act."

The Industrial Employment (Standing Orders) Act, 1946

Amendments made by the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956), sec. 32 :—*

S. 2. (P. 576) *For cl. (i), read the following clause, namely:—*

"(i) 'workman' means any person (including an apprentice) employed in any industrial establishment to do any skilled or unskilled manual; supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person—

(i) who is subject to the Army Act, 1950 (46 of 1950), or the Air Force Act, 1950 (45 of 1950), or the Navy (Discipline) Act, 1934 (34 of 1934); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;"

S. 4. (P. 577) *For the words "shall not be the function", read the words "shall be the function".*

S. 10. (P. 578) *For sub-sec. (2), read the following sub-section, namely:—*

"(2) Subject to the provisions of sub-section (1), an employer or workman may apply to the Certifying Officer to have the standing orders modified, and such application shall be accompanied by five copies of the standing orders in which shall be indicated the modifications proposed to be made, and where such modifications are proposed to be made by agreement between the employer and the workmen, a certified copy of that agreement shall be filed along with the application."

Ss. 13A & 13B. (P. 579) *After sec. 13, read the following sections, namely:—*

"13A. *Interpretation, etc., of standing orders.*—If any question arises as to the application or interpretation of a standing order certified under this Act, any employer or workman may refer the question to any one of the Labour Courts constituted under the Industrial Disputes Act, 1947 (14 of 1947), and specified for the disposal of such proceeding by the appropriate Government by notification in the Official Gazette, and the Labour Court to which the question is so referred shall, after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties.

*Amendments of secs. 2, 4 and 10 were brought into force on 17-9-56 by Notification No. S.R.O. 2074, d/- 10-9-56, pub. in Gazette of India, d/- 15-9-56, Pt. II-Sec. 3, p. 1558.

13B. *Act not to apply to certain industrial establishments.*—Nothing in this Act shall apply to an industrial establishment in so far as the workmen employed therein are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply."

The Mineral Concession Rules, 1949

R. 3 (P. 782) In cl. (ii), for the words "Chalcedony pebbles" the words "Chalcedony pebbles used for ball mill purposes only" were substituted by Notification No. S.R.O. 2300, d/- 3-10-56 (*vide* Gazette of India, d/- 13-10-56, Pt. II-Sec. 3, p. 1720).

R. 7 (P. 783) After sub-rule (2), the following sub-rule was added by Notification No. S.R.O. 2063, d/- 4-9-56 (*vide* Gazette of India, d/- 15-9-56, Pt. II-Sec. 3, p. 1554), namely:—

"(3) Every application under sub-rule (1) shall be disposed of by the State Government within six months from the date of receipt of the application."

R. 17 (P. 785) After sub-rule (1), the following sub-rule was added by *ibid*, namely:—

"(1A) Every application under rule 14 shall be disposed of by the State Government within nine months from the date of receipt of the application."

R. 24 (P. 789) Rule 24 was renumbered as sub-rule (1) thereof and after sub-rule (1) as so renumbered, the following sub-rule was added by Notification No. S.R.O. 2176, d/- 19-9-56 (*vide* Gazette of India, d/- 29-9-56, Pt. II-Sec. 3, pp. 1641-1642), namely:—

"(2) Where a mining lease is granted to a licensee over a part only of the area covered by the license, the State Government may, on application made in this behalf by the licensee and subject to the provisions of rule 22, permit the licensee to continue in possession of the remaining part for the unexpired period of the license or renew the license in respect of such remaining part."

R. 28 (P. 790) After sub-rule (1), the following sub-rule was added by Notification No. S.R.O. 2063, d/- 4-9-56, namely:—

"(1A) Every application under rule 27 shall be disposed of by the State Government within nine months from the date of receipt of the application."

R. 57 (P. 800) (a) After sub-rule (1), the following sub-rule was added by *ibid*, namely:—

"(1A) Where a State Government has failed to dispose of an application for the grant or renewal of a certificate of approval or prospecting license or a mining lease within the period prescribed therefor in these

Rules, such failure shall, for the purpose of these rules, be deemed to be a refusal to grant or renew such certificate, license or lease, as the case may be, and any person aggrieved by such failure may, within two months of the expiry of the period aforesaid, apply to the Central Government for reviewing the case."

(b) In sub-rule (2), for "under sub-rule (1)" the words "under this rule" were substituted by *ibid.*

R. 59 (P. 800) For the words "cancel the order of the State Government or revise it in such manner as the Central Government may deem just and proper", the words "cancel or revise the order of the State Government or pass such order as the Central Government may deem just and proper" were substituted by *ibid.*

Sch. 1 (P. 803) To item 5, the following *Explanation* was added by Notification No. S.R.O. 2125, d/- 15-9-56 (*vide* Gazette of India, d/- 22-9-56, Pt. II-Sec. 3, p. 1604), namely:—

"*Explanation.*—For the purpose of this item "value" means the value of 'raw uncut stone', i.e. stone from which adhering rock, soil and mud have been removed by washing or any other simple means, but to which no other processing has been done."

The Indian Railways Act, 1890

CHAP. VI-A (Pp. 925-927) For Chapter VI-A, the following Chapter was substituted by the Indian Railways (Am.) Act 59 of 1956, namely:—

"CHAPTER VIA

LIMITATION OF EMPLOYMENT OF RAILWAY SERVANTS

71A. Definitions.—In this Chapter, unless the context otherwise requires,—

(a) the employment of a railway servant is said to be "continuous" except when it is excluded or has been declared to be essentially intermittent or intensive;

(b) the employment of a railway servant is said to be "essentially intermittent" when it has been declared to be so by the prescribed authority on the ground that the daily hours of duty of the railway servant normally include periods of inaction aggregating six hours or more (including at least one such period of not less than one hour or two such periods of not less than half an hour each), during which the railway servant may be on duty, but is not called upon to display either physical activity or sustained attention;

(c) the employment of a railway servant is said to be "excluded", if he belongs to any one of the following categories, namely:—

(i) railway servants employed in a confidential capacity;

(ii) armed guards, or other personnel subject to discipline similar to that of the armed police forces;

(iii) staff of the railway schools imparting technical training or academic education;

(iv) such categories of class IV staff as may be specified by the Central Government by rules made under section 71E;

(v) such staff as may be specified as supervisory staff by the Central Government by rules made under section 71E;

(vi) such categories of staff of the Health and Medical department as may be specified by the Central Government by rules made under section 71E;

(d) the employment of a railway servant is said to be "intensive" when it has been declared to be so by the prescribed authority on the ground that it is of a strenuous nature involving continued concentration or hard manual labour with little or no period of relaxation.

71B. *Chapter VIIA not to apply to certain railway servants.*—This Chapter shall not apply to any railway servant to whom the Indian Merchant Shipping Act, 1923 (21 of 1923) or the Factories Act, 1948 (63 of 1948) or the Mines Act, 1952 (35 of 1952) applies.

71C. *Limitation of hours of work.*—(1) A railway servant whose employment is essentially intermittent shall not be employed for more than seventy-five hours in any week;

(2) A railway servant whose employment is continuous shall not be employed for more than fifty-four hours a week on the average in any month;

(3) A railway servant whose employment is intensive shall not be employed for more than forty-five hours a week on the average in any month;

(4) Subject to any rules that may be made under section 71E, temporary exemptions of railway servants from the provisions of sub-section (1) or sub-section (2) or sub-section (3) may be made by the prescribed authority if it is of opinion that such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway or in cases of accident, actual or threatened, or when urgent work is required to be done to the railway or to rolling stock, or in any emergency which could not have been foreseen or prevented, or in other cases of exceptional pressure of work;

Provided that a railway servant so exempted shall be paid for overtime at not less than one and one-half times his ordinary rate of pay.

71D. *Grant of periodical rest.*—(1) Subject to the provisions of this section, a railway servant—

(a) whose employment is intensive or continuous shall be granted, each week commencing on Sunday, a rest of not less than thirty consecutive hours;

(b) whose employment is essentially intermittent shall be granted, each week commencing on Sunday, a rest of not less than twenty-four consecutive hours including a full night;

(c) whose employment is excluded under sub-clause (iv) of clause (c) of section 71A shall be granted a rest of not less than forty-eight

consecutive hours each month, or a rest of not less than twenty-four consecutive hours each fortnight.

(2) Notwithstanding anything contained in sub-section (1), locomotive or traffic running staff shall be granted, each month, a rest of at least four periods of not less than thirty consecutive hours each, or at least five periods of not less than twenty-two consecutive hours each including a full night.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, by rules made under section 71E, specify the railway servants to whom periods of rest may be granted on a scale less than that laid down under sub-section (1) and may prescribe the periods of rest to be granted to such railway servants.

(4) Subject to any rules that may be made under section 71E, temporary exemptions of railway servants from the provisions of sub-section (1) or sub-section (2) may be made by the prescribed authority if it is opinion that such temporary exemptions are necessary in the cases or circumstances specified under sub-section (4) of section 71C:

Provided that a railway servant so exempted shall, as far as may be possible, be granted compensatory periods of rest for the periods he has foregone.

71E. Power to make rules.—(1) The Central Government may make rules—

(a) prescribing the authorities who may declare that the employment of any railway servant is essentially intermittent or intensive; and providing for appeals against any such declaration and the manner in which, and the conditions subject to which, any such appeal may be filed and heard;

(b) specifying the railway servants or classes of railway servants to whom sub-clauses (iv), (v) and (vi) of clause (c) of section 71A may apply;

(c) prescribing the authorities by whom exemptions under sub-section (4) of section 71C or sub-section (4) of section 71D may be made;

(d) providing for the delegation of powers by the prescribed authorities referred to in clause (c);

(e) specifying the railway servants or classes of railway servants to whom sub-section (3) of section 71D may apply and prescribing the periods of rest to be granted to them;

(f) providing for appointment of supervisors of railway labour and their functions;

(g) providing for any other matter which has to be, or may be, prescribed under this Chapter.

(2) The rules made under sub-section (1) shall be subject to the provisions of section 143.

71F. Railway servant to remain on duty.—Nothing in this Chapter or the rules made thereunder shall authorise a railway servant to leave his duty where due provision has been made for his relief, until he has been relieved.

71G. Supervision of railway labour.—(1) Subject to any rules that may be made under section 71E, the Central Government may appoint persons to be supervisors of railway labour.

(2) The duties of supervisors of railway labour shall be—

(a) to inspect railways in order to determine if the provisions of this Chapter and of the rules made thereunder are duly observed; and

(b) to perform such other functions as may be prescribed.

(3) A supervisor of railway labour shall be deemed to be an Inspector for the purposes of sections 5 and 6.

71H. Penalty.—Any person under whose authority any railway servant is employed in contravention of any of the provisions of this Chapter or of the rules made thereunder shall be punishable with fine which may extend to five hundred rupees."

The Coal Mines Pithead Bath Rules, 1946

The following amendments were made by Notification No. S.R.O. 2465, d/- 22-10-56, published in Gazette of India, d/- 27-10-56, Pt. II-Sec. 3, p. 1805, namely:—

R. 3 (Pp. 756-757) (i) In sub-rule (1), for "owner of every coal mine shall" read "owner, agent or manager of every coal mine shall, within such period as may be specified by the competent authority";

(ii) in cl. (iii) of sub-rule (1), after "owner" read ", agent or manager";

(iii) omit sub-rule (2) and renumber the existing sub-rule (3) as sub-rule (2).

R. 7 (P. 758) In sub-rule (1), after "owner" read ", agent or manager".

R. 8 (P. 759) In sub-rule (2), after "owner" read ", agent or manager".

R. 9 (P. 759) In sub-rules (1) and (2), omit "of the prescribed type".

R. 10 (P. 759) In sub-rule (2), after "owner" read ", agent or manager".

THE APPRENTICES ACT, 1850.

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THE APPRENTICES ACT, 1850.

*Act No. XIX of 1850.

[11th April, 1850]

Concerning the binding of Apprentices.

Preamble.—For better enabling children, and especially orphans and poor children brought up by public charity, to learn trades, crafts and employments, by which, when they come to full age, they may gain a livelihood; It is enacted as follows:—

¹ Short title given by the Indian Short Titles Act 14 of 1897.

² Instruments of apprenticeship executed by a Magistrate under this Act, or by which a person is apprenticed by or at the charge of any public charity are exempted from stamp duty. See the Indian Stamp Act 2 of 1899, Sch. 1, Art. 9.

1. *Apprenticing of child between ten and eighteen years.*—Any child, above the age of ten, and under the age of eighteen years, may be bound apprentice by his or her father or guardian to learn any fit trade, craft or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of twenty-one years, or, in the case of a female, beyond the time of her marriage.

2. *Evidence of age in questions as to right to service.*—The age set forth in the contracts shall be evidence of the age of the child, in all questions which arise as to the right of the master to the continuance of the service.

3. *Powers of Magistrate or Justice acting for orphans, &c.*—Any Magistrate or Justice of the Peace may act with all the powers of a guardian under the Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him, or any other Magistrate, of vagrancy, or the commission of any petty offence.

4. *Apprenticing of child brought up by public charity.*—An orphan or poor child, brought up by any public charity, may be bound apprentice by the governors, directors or managers thereof, as his or her guardians for this purpose.

5. [*Apprenticing of such boy in sea service.*] *Rep. by the Indian Merchant Shipping Act XXI of 1923.*

6. [*Apprenticing of such boy in ship of the East India Company.*] *Rep. by the Repealing Act XIV of 1870.*

7. [*Who to be agent of master of apprentice serving in ship.*] *Rep. by the Indian Merchant Shipping Act XXI of 1923.*

8. *Form and contents of contract of apprenticeship.*—Every contract of apprenticeship shall be in writing, according to the form given in the Schedule (A) annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon, particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.

9. *Signatures to contract.*—Every such contract shall be signed by the person to whom the apprentice is bound, and by the person by whom he is bound, and by the apprentice, when he is of the age of fourteen years or more at the time of binding; but when the apprentice is bound by the governors, directors or managers of the public charity, the signature of two of them, or of their secretary or officer shall be sufficient on behalf of the persons binding the apprentice.

10. *Contract not valid unless executed as prescribed and deposited. Copies to be given to parties.*—No such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been deposited

in the office of the Chief Magistrate of the place or district where it has been executed; and the person in whose office any such contract is deposited shall give to each of the parties a copy thereof, certified under his hand, which certified copies shall be received as evidence of the contract, without formal proof of the handwriting of the Magistrate.

11. *Alteration of terms of service and termination of contract.*—The terms of service may be changed at any time during the apprenticeship, or the contract may be determined, with the consent of both parties to the contract or their personal representatives, and with the consent of the apprentice if he is above the age of fourteen years: Provided that the changes agreed to or the termination of the contract shall be expressed in writing on the original contract, with the signature of the proper parties according to section 9 of this Act; and the Magistrate shall thereupon make under his hand corresponding endorsements on the office copies, which shall be brought to him at the same time for that purpose.

12. *Assignment of apprentice to new master.*—The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice if he is above the age of fourteen years, assign such apprentice to any other person, who is willing to take him for the residue of his apprenticeship, and subject to the conditions thereof: Provided that such person shall by endorsement under his own hand on the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively: And every such assignment shall be certified on the office copies of the contract under the hand of the Magistrate according to the form given in Schedule (B) annexed to this Act.

13. *Powers of Magistrate in case of complaint by apprentice against master.*—Upon complaint made to any Magistrate in the said territories² by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master, or by the agent under whom he shall have been placed by his master, the Magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint;

and at such time, whether the master or his agent be present or not (service of the summons being proved), may examine into the

²*i.e.*, the States, referring to "territories under the Government of the East India Company" which occurred in s. 5, since repealed.

matter of the complaint; and, upon proof thereof, may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be the master or his agent, a reasonable sum for behoof of the apprentice, not exceeding four times the amount of the premium paid upon the binding, or if no premium, or a less premium than fifty rupees was paid, not exceeding two hundred rupees;

and, if the offender shall not pay the sum so assessed, may levy the same by distress and sale of his goods and chattels, and, if the offender shall not be the master but his agent, by distress and sale of the goods and chattels of the master also.

14. Powers of master or his agent to chastise apprentice. Liability of master or agent for assault, etc.—No contract of apprenticeship shall be cancelled, nor shall any master or his agent be liable to any criminal proceeding, on account of such moderate chastisement for misbehaviour given to any apprentice by his master or the agent of his master, as may lawfully be given by a father to his child; and the provision for enabling the contract of apprenticeship to be cancelled shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished had it been against his child, whether or not any proceedings be taken for cancelling the contract of apprenticeship.

15. Power of Magistrate in case of complaint by master against apprentice.—Upon complaint made to any Magistrate, by or on behalf of the master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the Magistrate may issue his warrant for apprehending such apprentice, and may hear and determine the complaint, and punish the offender by an order for keeping the offender, if a boy, in confinement in any debtor's prison or other suitable place; not being a criminal gaol, for any time not exceeding one month, of which one week may be in solitary confinement, during which time such allowance shall be made for his subsistence by the master or his agent as the Magistrate shall order; and, if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped: or, if the offender be a girl, or in the case of any boy, the Magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, or on board the vessel to which he belongs, upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.

16. Cancellation of contract for misconduct of apprentice.—Upon complaint of wilful and repeated ill-behaviour on the part of the apprentice, and on the demand of the master, the Magistrate may order

the contract of apprenticeship to be cancelled, whether or not the charge is proved; but only with the consent of the apprentice and of his father or guardian, if the charge is not proved; and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid to the master on binding such apprentice, as to the Magistrate seems fit on consideration of the case; and all sums so refunded shall be applied under the direction of the Magistrate for behoof of the apprentice.

17. Appropriation of sum recovered for apprentice on cancellation of contract.—The Magistrate may order any sum recovered for behoof of the apprentice on cancelling the contract to be either laid out in binding him to another master, or otherwise for his benefit, or to be paid to the person by whom any premium was paid when he was bound apprentice.

18. Limitation of complaint of master against apprentice, of apprentice against master.—No Magistrate shall entertain a complaint on the part of a master against an apprentice under this Act unless it be brought within one month after the cause of complaint arose, or, if the cause of complaint arose on board ship during a voyage, within one month after the arrival thereof at a port or place in the said territories; and no Magistrate shall entertain a complaint on the part of an apprentice against his master or the agent of his master under this Act unless it be brought within three months after the cause of complaint arose, or, if the cause of complaint arose on board ship during a voyage, within three months after the arrival thereof at a port or place in the said territories.

19. Effect of death of master during apprenticeship. Offer by representative of master to continue apprentice.—If the master of any apprentice shall die before the end of the apprenticeship, the contract of apprenticeship shall be thereby determined; and a proportionate part, corresponding to the unexpired portion of the term of any premium, which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the executors or administrators out of the estate of the deceased to the person or persons who shall have paid the same; unless the executors or administrators of the deceased master shall continue the business in which such apprentice shall have been employed, and shall, within three months from the death of the late master, make offer in writing to keep the apprentice on the terms of the original contract; in which case the estate of the deceased shall be discharged from all liabilities on account of such premium.

20. Offer to be certified on original contract and copies.—If such offer to keep the apprentice shall be made as aforesaid, the same shall be fully expressed and certified by the executors or administrators on

the original contract of apprenticeship, and also on the office copies thereof, by the Magistrate and the apprentice shall be bound to the executors or administrators so keeping him for the remaining term of the apprenticeship.

21. Maintenance of apprentice whose master dies. *Apprentice to continue to serve.*—Any apprentice bound under this Act, whose master shall die during the apprenticeship, shall be entitled to maintenance for three months from and after the death of his master, out of the assets left by him: Provided that during such three months such apprentice shall continue to live with and serve as an apprentice, the executors or administrators of such master or such person as they appoint.

22. Effect of insolvency of master during apprenticeship.—The apprentice of any person against whom a commission of bankruptcy shall be issued, or who shall be adjudged to have committed an act of insolvency, during the apprenticeship, shall be discharged from all obligation under the contract of apprenticeship; and, if any premium was paid on binding him as an apprentice, he or a person by whom he was bound shall be entitled to claim the amount thereof as a debt against the estate of the bankrupt or insolvent.

23. Persons amenable to jurisdiction of Magistrates' Courts.—For the purposes of this Act all ⁴[citizens of India], wherever or of whatever parents born, as well as other persons in ⁵[Part A States or Part C States], without the towns of Calcutta and Madras and the town and island of Bombay, shall be amenable to the jurisdiction of the Courts and Magistrates of ⁶[Part A States or Part C States].

24. Appeal from orders of Mufassal Magistrates.—An appeal shall lie from any order passed by any Magistrate without the said towns and island to the Court of Session to which such Magistrate is subordinate, provided the appeal is made within one month from the date of the order.

25. Interpretation of terms.—In this Act the words "master", "owner", "person", and the pronoun "he" shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.

⁴Subs. for "British subjects" by L. A. O., 1950.

⁵Subs. by L. A. O., 1950 for "the Provinces" which had been subs. for "British India" by L. A. O., 1938.

SCHEDULE A.

FORM OF AGREEMENT.

This agreement made the _____ day of _____ in the year _____ between *A. B.*, of _____, and *C. D.*, of _____, witnesseth that the said *A. B.* doth this day bind *E. F.*, a boy (or girl) of the age of _____ years completed, son (or daughter) of the said *A. B.* (or otherwise describing the relation in which *A. B.* and *E. F.* stand), to dwell with and serve the said *C. D.*, as apprentice, from this day forth for _____ years (in the case of a girl add, or until the time of her marriage, which shall first happen), during all which term the said apprentice shall duly and faithfully serve the said *C. D.*, according to his (or her) skill and ability in all lawful business, and demean and behave himself (or herself) honestly, orderly and obediently, in all things, towards the said *C. D.* and his (or her) family. And the said *C. D.* for himself (or herself) and his (or her) executors and —If there is no premium the administrators, in consideration [of the words between brackets may be premium or sum of _____ paid by the said omitted.] *A. B.* to the said *C. D.*, the receipt whereof the said *C. D.* hereby acknowledges, and] of the faithful service of the said *E. F.*, doth covenant and agree with the said *A. B.*, his (or her) executors and administrators, that he (or she) will teach or cause to be taught to the said *E. F.*, in the best way and manner that he (or she) can, the trade (craft or employment) of a _____ during the said term; and will also, during the said term, find and allow unto the said apprentice good, wholesome and sufficient food, clothes, lodging, washing, and all other things necessary, fit and reasonable for an apprentice: (and further, *here insert any special covenants*).

In witness whereof the parties have hereunto set their hands and seals the day and year above written.

A. B.



C. D.

L. S.



SCHEDULE B.

FORM OF ORDER OF ASSIGNMENT.

(To be endorsed on the Agreement.)

Be it known to all men that on the
 day of in the year personally appeared before G.
 H., Magistrate of , C. D., of with E. F., his (or her)
 apprentice and J. K., of , and desired that the agreement of
 apprenticeship whereby the said E. F. was bound to the said C. D.
 might be assigned and made over to the said J. K., and the said G. H.,
 having satisfied himself, by personal examination of the said E. F. and
 by other lawful ways and means, that such assignment is for the
 benefit of the said E. F., and is made with the consent of [the said
 E. F., and of] all persons whose consent

If E. F. is not above the age of fourteen years, the words between brackets may be omitted. thereunto by law is required, doth allow
 such assignment; and the contract of
 apprenticeship whereby the said E. F. was

on the day of in the year bound
 to the said C. D. as an apprentice to learn the trade (craft or employ-
 ment) of a shall henceforth endure, unto the end of the said
 term, as if the said J. K. had been originally party to the said deed,
 and had executed the same, in the place and stead of the said C. D.,
 and shall be bound, for himself (or herself), his (or her) executors or
 administrators, to fulfil the covenants by the said C. D. to be perform-
 ed, and the said E. F. shall henceforth be bound unto the said J. K.,
 in like manner as he (or she) was by the said agreement bound unto
 the said C. D.

C. D.

E. F.

J. K.

In witness whereof the said C. D., E. F., and J. K. have hereunto
 set their hands before me the day and year above written.

G. H.,
 Magistrate.

THE INDIAN BOILERS ACT, 1923.

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THE SCHEDULE.—[Repealed.]

THE INDIAN BOILERS ACT, 1923.

Act No. V of 1923.¹

[23rd February, 1923.]

An Act to consolidate and amend the law relating to steam-boilers.

WHEREAS it is expedient to consolidate and amend the law relating to steam-boilers; It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Indian Boilers Act, 1923.

¹ For Statement of Objects and Reasons, see Gazette of India, 1923, Pt. V, p. 249; and for Report of Joint Committee, see *ibid.*, 1923, Pt. V, p. 15.

This Act has been extended to Berar by the Berar Laws Act 4 of 1941.

²[(2) It extends to the whole of India ³[except the State of Jammu and Kashmir].]

(3) It shall come into force on such date⁴ as the Central Government may, by notification in the Official Gazettee, appoint.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "accident" means an explosion of a boiler or steam-pipe or any damage to a boiler or steam-pipe which is calculated to weaken the strength thereof so as to render it liable to explode;

(aa) "Board" means the Central Boilers Board constituted under section 27A;

(b) "boiler" means any closed vessel exceeding five gallons in capacity which is used expressly for generating steam under pressure and includes any mounting or other fitting attached to such vessel, which is wholly or partly under pressure when steam is shut off;

(c) "Chief Inspector" and "Inspector" mean, respectively, a person appointed to be a Chief Inspector and an Inspector under this Act;

(cc) "economiser" means any part of a feed-pipe that is wholly or partially exposed to the action of the gases for the purpose of recovery of waste heat;

(ccc) "feed-pipe" means any pipe or connected fitting wholly or partly under pressure through which feed water passes directly to a boiler and ⁵[which] does not form an integral part thereof;

(d) "owner" includes any person using a boiler as agent of the owner thereof and any person using a boiler which he has hired or obtained on loan from the owner thereof;

(e) "prescribed" means prescribed by regulations or rules made under this Act;

(f) "steam-pipe" means any main pipe exceeding three inches in internal diameter through which steam passes directly from a boiler to a prime-mover or other first user, and includes any connected fitting of a steam-pipe; and

(g) "structural alteration, addition or renewal" shall not be deemed to include any renewal or replacement of a petty nature when the part or fitting used for replacement is not inferior in strength, efficiency or otherwise to the replaced part or fitting.

² Subs. for former sub-sec. (2) by I. A. O., 1950.

³ Subs. for "except Part B States" by the Part B States (Laws) Act 3 of 1951.

⁴ This Act came into force on 1st January, 1923, see Gen. R. & O., Vol. V, p. 134; Gazette of India, 1923, Pt. I, p. 1695.

⁵ Ins. by the Repealing and Amending Act 40 of 1949.

2A. Every reference in this Act [except where the word 'steam-pipe' is used in clause (f) of section 2], to a steam-pipe or steam-pipes shall be deemed to include also a reference to a feed-pipe or feed-pipes, respectively.

2B. Every reference in this Act to a boiler or boilers [except in clause (ccc) of section 2, * * * *] and section 34] shall be deemed to include also a reference to an economiser or economisers, respectively.

3. Limitation of application.—(1) Nothing in this Act shall apply in the case of any boiler or steam-pipe—

(a) in any steam-ship as defined in section 3 of the 'Indian Steam-ships Act, 1884 (VII of 1884), or in any steam-vessel as defined in section 2 of the Inland Steam-vessels Act, 1917 (I of 1917), or

*[(b) belonging to, or under the control of the Army, Navy or Air Force; or]

(c) appertaining to a sterilizer or disinfector of a type such as is commonly used in hospitals, if the boiler does not exceed twenty gallons in capacity.

(2) The *[Central Government] may, by notification in the Official Gazette, declare that the provisions of this Act shall not apply in the case of boilers or steam-pipes, or of any specified class of boilers or steam-pipes, belonging to or under the control of any railways¹ administered by the *[Central Government] or by any *[State Government] or by any railway company as defined in clause (5) of section 3 of the Indian Railways Act, 1890 (IX of 1890).

[* * *]

4. Power to limit extent.—The *[State Government] may, by notification in the Official Gazette, exclude² any specified area from the operation of all or any specified provisions of this Act.

¹ The words, brackets, letters and figures "clause (c) of section 6, clauses (c) and (d) of section 11, clause (d) of section 2d" omitted by the Indian Boilers (Am.) Act 25 of 1952.

² See now the Indian Merchant Shipping Act 21 of 1923, s. 2.

³ Subs. for former cl. (b) by the Indian Boilers (Am.) Act 38 of 1951.

⁴ Subs. for "Safety Controlling Authority" by I. A. O., 1948.

⁵ For list of Railways notified under this section, see G. R. & O., Vol. V, p. 134.

⁶ Subs. for "Federal Railway Authority" by I. A. O., 1948.

⁷ Subs. for "Provincial Government" by I. A. O., 1950.

⁸ Certain words defining "Safety Controlling Authority" omitted by I. A. O., 1948.

⁹ The Andaman and Nicobar Islands excluded from the operation of the provisions of this Act: See G. R. & O., Vol. V, p. 135.

5. *Appointment of Chief Inspectors and Inspectors.*—(1) The ¹[State Government] may appoint such persons as it thinks fit to be Inspectors for the ²[State] for the purposes of this Act, and may define the local limits within which each Inspector shall exercise the powers and perform the duties conferred and imposed on Inspectors by or under this Act.

(2) The ³[State Government] shall likewise appoint a person to be Chief Inspector for the ⁴[State], who may, in addition to the powers and duties conferred or imposed on the Chief Inspector by or under this Act, exercise any power or perform any duty so conferred or imposed on Inspectors.

(3) Every Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

6. *Prohibition of use of unregistered or uncertificated boiler.*—Save as otherwise expressly provided in this Act, no owner of a boiler shall use the boiler or permit it to be used—

(a) unless it has been registered in accordance with the provisions of this Act;

(b) in the case of any boiler which has been transferred from one ⁵[State] to another, until the transfer has been reported in the prescribed manner;

(c) unless a certificate or provisional order authorising the use of the boiler is for the time being in force under this Act;

(d) at a pressure higher than the maximum pressure recorded in such certificate or provisional order;

(e) where the ⁶[State Government] has made rules requiring that boilers shall be in charge of persons holding certificates of competency, unless the boiler is in charge of a person holding the certificate required by such rules:

Provided that any boiler registered, or any boiler certified or licensed, under any Act hereby repealed shall be deemed to have been registered or certified, as the case may be, under this Act.

7. *Registration.*—(1) The owner of any boiler which is not registered under the provisions of this Act may apply to the Inspector to have the boiler registered. Every such application shall be accompanied by the prescribed fee.

(2) On receipt of an application under sub-section (1), the inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed.

¹ See f. n. 3 at p. 11.

² Subs. for "Province" by I. A. O., 1950.

(3) On the said date the Inspector shall proceed to measure and examine the boiler and to determine in the prescribed manner the maximum pressure, if any, at which such boiler may be used, and shall report the result of the examination to the Chief Inspector in the prescribed form.

(4) The Chief Inspector, on receipt of the report, may—

(a) register the boiler and assign a register number thereto either forthwith or after satisfying himself that any structural alteration, addition or renewal which he may deem necessary has been made in or to the boiler or any steam-pipe attached thereto, or

(b) refuse to register the boiler:

Provided that where the Chief Inspector refuses to register a boiler, he shall forthwith communicate his refusal to the owner of the boiler together with the reasons therefor.

(5) The Chief Inspector shall, on registering the boiler, order the issue to the owner of a certificate in the prescribed form authorising the use of the boiler for a period not exceeding twelve months at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act.

Provided that a certificate issued under this sub-section in respect of an economiser may authorise its use for a period not exceeding twenty-four months.

(6) The Inspector shall forthwith convey to the owner of the boiler the orders of the Chief Inspector and shall in accordance therewith issue to the owner any certificate of which the issue has been ordered, and, where the boiler has been registered, the owner shall within the prescribed period cause the register number to be permanently marked thereon in the prescribed manner.

8. *Renewal of certificate.*—(1) A certificate authorising the use of a boiler shall cease to be in force—

(a) on the expiry of the period for which it was granted; or

(b) when any accident occurs to the boiler; or

(c) when the boiler is moved, the boiler not being a vertical boiler the heating surface of which is less than two hundred square feet, or a portable or vehicular boiler; or

(d) when any structural alteration, addition or renewal is made in or to the boiler; or

(e) if the Chief Inspector in any particular case so directs, when any structural alteration, addition, or renewal is made in or to any steam-pipe attached to the boiler; or

(f) on the communication to the owner of the boiler of an order of the Chief Inspector or Inspector prohibiting its use on the ground that it or any steam-pipe attached thereto is in a dangerous condition.

(2) Where an order is made under clause (f) of sub-section (1), the grounds on which the order is made shall be communicated to the owner with the order.

(3) When a certificate ceases to be in force, the owner of the boiler may apply to the Inspector for a renewal thereof for such period not exceeding twelve months as he may specify in the application:

Provided that where the certificate relates to an economiser, the application for its renewal may be for a period not exceeding twenty-four months.

(4) An application under sub-section (3) shall be accompanied by the prescribed fee and, on receipt thereof, the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed:

Provided that, where the certificate has ceased to be in force owing to the making of any structural alteration, addition or renewal, the Chief Inspector may dispense with the payment of any fee.

Provided further that in the case of an economiser, the owner shall be given not less than thirty days' notice of the date fixed for its examination.

(5) On the said date the Inspector shall examine the boiler in the prescribed manner, and if he is satisfied that the boiler and the steam-pipe or steam-pipes attached thereto are in good condition shall issue a renewal certificate authorising the use of the boiler for such period not exceeding twelve months and at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act:

Provided that a renewed certificate issued under this sub-section in respect of an economiser may authorise its use for a period not exceeding twenty-four months.

Provided further that if the Inspector—

(a) proposes to issue any certificate—

(i) having validity for a less period than the period entered in the application, or

(ii) increasing or reducing the maximum pressure at which the boiler may be used, or

(b) proposes to order any structural alteration, addition or renewal to be made in or to the boiler or any steam-pipe attached thereto, or

(c) is of opinion that the boiler is not fit for use, the Inspector shall, within forty-eight hours of making the examination, inform the owner of the boiler in writing of his opinion and the reasons therefor, and shall forthwith report the case for orders to the Chief Inspector.

(6) The Chief Inspector, on receipt of a report under sub-section (5), may, subject to the provisions of this Act and of the regulations made hereunder, order the renewal of the certificate in such terms and on such conditions, if any, as he thinks fit, or may refuse to renew it:

Provided that where the Chief Inspector refuses to renew a certificate, he shall forthwith communicate his refusal to the owner of the boiler, together with the reasons therefor.

(7) Nothing in this section shall be deemed to prevent an owner of a boiler from applying for a renewed certificate therefor at any time during the currency of a certificate.

9. Provisional orders.—Where the Inspector reports the case of any boiler to the Chief Inspector under sub-section (3) of section 7 or sub-section (5) of section 8, he may, if the boiler is not a boiler the use of which has been prohibited under clause (f) of sub-section (1) of section 8, grant to the owner thereof a provisional order in writing permitting the boiler to be used at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under the Act pending the receipt of the orders of the Chief Inspector. Such provisional order shall cease to be in force—

(a) on the expiry of six months from the date on which it is granted, or

(b) on receipt of the orders of the Chief Inspector, or

(c) in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8,

and on so ceasing to be in force shall be surrendered to the Inspector.

10. Use of boiler pending grant of certificate.—(1) Notwithstanding anything hereinbefore contained, when the period of a certificate relating to a boiler has expired, the owner shall, provided that he has applied before the expiry of that period for a renewal of the certificate, be entitled to use the boiler at the maximum pressure entered in the former certificate pending the issue of orders on the application.

(2) Nothing in sub-section (1) shall be deemed to authorise the use of a boiler in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8 occurring after the expiry of the period of the certificate.

11. Revocation of certificate or provisional order.—The Chief Inspector may at any time withdraw or revoke any certificate or provisional order on the report of an Inspector or otherwise—

(a) if there is reason to believe that the certificate or provisional order has been fraudulently obtained or has been granted erroneously or without sufficient examination; or

(b) if the boiler in respect of which it has been granted has sustained injury or has ceased to be in good condition; or

(c) where the ²[State Government] has made rules requiring that boilers shall be in charge of persons holding certificates of

² Subs. for "Provincial Government" by I. A. O., 1930.

competency, if the boiler is in charge of a person not holding the certificate required by such rules; or

(d) where no such rules have been made, if the boiler is in charge of a person who is not, having regard to the condition of the boiler, in the opinion of the Chief Inspector competent to have charge thereof:

Provided that where the Chief Inspector withdraws or revokes a certificate or provisional order on the ground specified in clause (d), he shall communicate to the owner of the boiler his reasons in writing for the withdrawal or revocation, and the order shall not take effect until the expiry of thirty days from the receipt of such communication.

12. *Alterations and renewals to boilers.*—No structural alteration, addition or renewal shall be made in or to any boiler registered under this Act unless such alteration, addition or renewal has been sanctioned in writing by the Chief Inspector.

13. *Alterations and renewals to steam-pipes.*—Before the owner of any boiler registered under this Act makes any structural alteration, addition or renewal in or to any steam-pipe attached to the boiler, he shall transmit to the Chief Inspector a report in writing of his intention, and shall send therewith such particulars of the proposed alteration, addition or renewal as may be prescribed.

14. *Duty of owner at examination.*—(1) On any date fixed under this Act for the examination of a boiler, the owner thereof shall be bound—

(a) to afford to the Inspector all reasonable facilities for the examination and all such information as may reasonably be required of him;

(b) to have the boiler properly prepared and ready for examination in the prescribed manner; and

(c) in the case of an application for the registration of a boiler, to provide such drawings, specifications, certificates and other particulars as may be prescribed.

(2) If the owner fails, without reasonable cause, to comply with the provisions of sub-section (1), the Inspector shall refuse to make the examination and shall report the case to the Chief Inspector who shall, unless sufficient cause to the contrary is shown, require the owner to file a fresh application under section 7 or section 8, as the case may be, and may forbid him to use the boiler notwithstanding anything contained in section 10.

15. *Production of certificates, etc.*—The owner of any boiler who holds a certificate or provisional order relating thereto shall, at all reasonable times during the period for which the certificate or order is in force, be bound to produce the same when called upon to do so by a District Magistrate, Commissioner of Police or Magistrate of the

first class having jurisdiction in the area in which the boiler is for the time being, or by the Chief Inspector or by an Inspector or by any Inspector appointed under the Indian Factories Act, 1911 (XII of 1911),^{*} or by any person specially authorised in writing by a District Magistrate or Commissioner of Police.

16. *Transfer of certificates, etc.*—If any person becomes the owner of a boiler during the period for which a certificate or provisional order relating thereto is in force, the preceding owner shall be bound to make over to him the certificate or provisional order.

17. *Powers of entry.*—An Inspector may, for the purpose of inspecting or examining a boiler or any steam-pipe attached thereto or of seeing that any provision of this Act or of any regulation or rule made hereunder has been or is being observed, at all reasonable times enter any place or building within the limits of the area for which he has been appointed in which he has reason to believe that a boiler is in use.

18. *Report of accidents.*—(1) If any accident occurs to a boiler or steam-pipe, the owner or person in charge thereof shall, within twenty-four hours of the accident, report the same in writing to the Inspector. Every such report shall contain a true description of the nature of the accident and of the injury, if any, caused thereby to the boiler or to the steam-pipe or to any person, and shall be in sufficient detail to enable the Inspector to judge of the gravity of the accident.

(2) Every person shall be bound to answer truly to the best of his knowledge and ability every question put to him in writing by the Inspector as to the cause, nature or extent of the accident.

19. *Appeals to Chief Inspector.*—Any person considering himself aggrieved by—

(a) an order made or purporting to be made by an Inspector in the exercise of any power conferred by or under this Act, or

(b) a refusal of an Inspector to make any order or to issue any certificate which he is required or enabled by or under this Act to make or issue,

may, within thirty days from the date on which such order or refusal is communicated to him, appeal against the order or refusal to the Chief Inspector.

20. *Appeals to appellate authority.*—Any person considering himself aggrieved by an original or appellate order of the Chief Inspector—

(a) refusing to register a boiler or to grant or renew a certificate in respect of a boiler; or

(b) refusing to grant a certificate having validity for the full period applied for; or

^{*}See now the Factories Act 63 of 1948.

(c) refusing to grant a certificate authorising the use of a boiler at the maximum pressure desired; or

(d) withdrawing or revoking a certificate or provisional order; or

(e) reducing the amount of pressure specified in any certificate or the period for which such certificate has been granted; or

(f) ordering any structural alteration, addition or renewal to be made in or to a boiler or steam-pipe or refusing sanction to the making of any structural alteration, addition or renewal in or to a boiler,

may, within thirty days of the communication to him of such order, lodge with the Chief Inspector an appeal to an appellate authority to be constituted by the *[State Government] under this Act.

21. Finality of orders.—An order of an appellate authority under section 20 and, save as otherwise provided in sections 19 and 20, an order of the Chief Inspector or of an Inspector shall be final and shall not be called in question in any Court.

22. Minor penalties.—Any owner of a boiler who refuses or without reasonable excuse neglects—

(i) to surrender a provisional order as required by section 9, or

(ii) to produce a certificate or provisional order when duly called upon to do so under section 15, or

(iii) to make over to the new owner of a boiler a certificate or provisional order as required by section 16,

shall be punishable with fine which may extend to one hundred rupees.

23. Penalties for illegal use of boiler.—Any owner of a boiler who, in any case in which a certificate or provisional order is required for the use of the boiler under this Act uses the boiler either without any such certificate or order being in force or at a higher pressure than that allowed thereby, shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to one hundred rupees for each day after the first day in regard to which he is convicted of having persisted in the offence.

24. Other penalties.—Any person who—

(a) uses or permits to be used a boiler of which he is the owner and which has been transferred from one *[State] to another without such transfer having been reported as required by section 6, or

(b) being the owner of a boiler fails to cause the registered number allotted to the boiler under this Act to be marked on the boiler as required by sub-section (6) of section 7, or

(c) makes any structural alteration, addition or renewal in or to a boiler without first obtaining the sanction of the Chief Inspector when so required by section 12, or to a steam-pipe without first informing the Chief Inspector, when so required by section 13, or

*Subs. for "Provincial Government" by I. A. O., 1950.

*Subs. for "Province" by I. A. O., 1950.

(d) fails to report an accident to a boiler or steam-pipe when so required by section 18; or

(e) tampers with a safety valve of a boiler so as to render it in-operative at the maximum pressure at which the use of the boiler is authorised under this Act,

shall be punishable with fine which may extend to five hundred rupees.

25. Penalty for tampering with register mark.—(1) Whoever removes, alters, defaces, renders invisible or otherwise tampers with the register number marked on a boiler in accordance with the provisions of this Act or any Act repealed hereby, shall be punishable with fine which may extend to five hundred rupees.

(2) Whoever fraudulently marks upon a boiler a register number which has not been allotted to it under this Act or any Act repealed hereby, shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

26. Limitation and previous sanction for prosecutions.—No prosecution for an offence made punishable by or under this Act shall be instituted except within six months from the date of the commission of the offence, and no such prosecution shall be instituted without the previous sanction of the Chief Inspector.

27. Trial of offences.—No offence made punishable by or under this Act shall be tried by a Court inferior to that of a Presidency Magistrate or a Magistrate of the first class.

27A. Central Boilers Board.—(1) A Board to be called the Central Boilers Board shall be constituted to exercise the powers conferred by section 28.

(2) The Board shall consist of ¹[nineteen] members, namely:—

(a) a chairman to be nominated by the Central Government;

²[(b) one member to be nominated by the ³[State Government] of each ⁴[Part A State or Part B State];]

(c) one member, holding office for a period of three years, to be nominated ⁵[by the Central Government to represent Part C States]; and

(d) one member to be nominated by the ⁶[Chairman, Railway Board].

¹Subs. by Act 3 of 1951 for "twelve" which had been subs. for "fourteen" by I. A. O. 1948.

²Subs. for former cl. by I. A. O. 1948.

³Subs. for "Provincial Government" by I. A. O. 1950.

⁴Subs. by Act 3 of 1951 for "Part A State" which had been subs. for "Governor's Province" by I. A. O. 1950.

⁵Subs. by I. A. O. 1950 for "alternately by the Provincial Government of Delhi and the Provincial Government of Ajmer-Merwara".

⁶Subs. for "Chief Commissioner of Railways" by the Repealing and Amending Act 48 of 1952.

(3) Any vacancy occurring in the Board, otherwise than by the expiry of the term of office of the member referred to in clause (c) of sub-section (2), shall be filled as soon as may be by a nomination made by the authority by whom the member vacating office was nominated.

(4) The Board shall have full power to regulate by by-laws or otherwise its own procedure and the conduct of all business to be transacted by the Board.

(5) The powers of the Board may be exercised notwithstanding any vacancy in the Board.

28. Power to make regulations.—The Board may, by notification in the Gazette of India, make regulations¹ consistent with this Act for all or any of the following purposes, namely:—

(a) for laying down the standard conditions in respect of material, design and construction which shall be required for the purpose of enabling the registration and certification of a boiler under this Act;

(aa) for prescribing the circumstances in which, the extent to which, and the conditions subject to which variation from the standard conditions laid down under clause (a) may be permitted;

(b) for prescribing the method of determining the maximum pressure at which a boiler may be used;

(c) for regulating the registration of boilers, prescribing the fees payable therefor, the drawings, specifications, certificates and particulars to be produced by the owner, the method of preparing a boiler for examination, the form of the Inspector's report thereon, the method of marking the register number, and the period within which such number is to be marked on the boiler;

(d) for regulating the inspection and examination of boilers and steam-pipes, and prescribing forms of certificates therefor;

(e) for ensuring the safety of persons working inside a boiler; and

(f) for providing for any other matter which is not, in the opinion of the Board, a matter of merely local or *[State] importance.

29. Power to make rules.—The *[State Government] may, by notification in the Official Gazette, make rules² consistent with this Act and the regulations made thereunder for all or any of the following purposes, namely:—

(a) for prescribing the qualifications and duties of the Chief Inspector and of Inspectors, for prescribing or constituting authorities

¹For the Indian Boilers Regulations, 1924, see G. R. & O., Vol. V, p. 136. These Regulations, made by the G. G. in Council, shall be deemed to have been made by the Board: see the Rules and Regulations Continuance Act 24 of 1937.

²Subs. for "Provincial" by I. A. O., 1950.

³Subs. for "Provincial Government" by I. A. O., 1950.

⁴For such rules for Coorg, see Notification No. 37, dated 31st March, 1925, in the Coorg District Gazette, 1925, Pt. I, p. 26.

to which they shall respectively be subordinate, and the limits of the administrative control to be exercised by such authorities;

(b) for regulating the transfer of boilers;

(c) for providing for the registration and certification of boilers in accordance with the regulations made under this Act;

(d) for requiring boilers to be in charge of persons holding certificates of competency, and for prescribing the conditions on which such certificates may be granted;

(e) for prescribing the times within which Inspectors shall be required to examine boilers under section 7 or section 8;

(f) for prescribing the fees payable for the issue of renewed certificates and the method of determining the amount of such fees in each case;

(g) for regulating inquiries into accidents;

(h) for constituting the appellate authority referred to in section 20, and for determining its powers and procedure;

(i) for determining the mode of disposal of fees, costs and penalties levied under this Act; and

(j) generally to provide for any matter which is in the opinion of the ¹[State Government], a matter of merely local importance in the [State]².

30. Penalty for breach of rules.—Any regulation or rule made under section 28 or section 29 may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

31. Publication of regulations and rules.—(1) The power to make regulations and rules conferred by sections 28 and 29 shall be subject to the condition of the regulations and rules being made after previous publication.

(2) Regulations and rules made shall be published in the Gazette of India and the local Official Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

32. Recovery of fees, etc.—All fees, costs and penalties levied under this Act shall be recoverable as arrears of land-revenue.

33. Applicability to the ³[Government].—Save as otherwise expressly provided, this Act shall apply to boilers and steam-pipes belonging to the ³[Government].

34. Exemptions.—(1) The ⁴[State Government] may, by notification in the Official Gazette, exempt from the operation of this Act, subject to such conditions and restrictions as it thinks fit, any boilers or classes or types of boilers used exclusively for the heating of buildings or the supply of hot water.

¹Subs. for "Province" by I. A. O., 1950.

²Subs. for "Crown" by I. A. O., 1950.

³Subs. for "Provincial Government" by I. A. O., 1950.

Power to suspend in case of emergency.—(2) In case of any emergency, the '[State Government] may, by general or special order in writing, exempt any boiler or steam-pipe from the operation of all or any of the provisions of this Act.

35. [*Repeal of enactments.*] *Repealed by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

[THE SCHEDULE.]

[*Enactments repealed.*]

Repealed by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.

THE CHILDREN (PLEDGING OF LABOUR) ACT, 1933.

Act No. II of 1933.¹

[24th February, 1933.]

An Act to prohibit the pledging of the labour of children.

WHEREAS it is expedient to prohibit the making of agreements to pledge the labour of children, and the employment of children whose labour has been pledged; It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Children (Pledging of Labour) Act, 1933.

²[(2) It extends to the whole of India ³[except the State of Jammu and Kashmir].]

(3) This section and sections 2 and 3 shall come into force at once, and the remaining sections of this Act shall come into force on the first day of July, 1933.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

"an agreement to pledge the labour of a child" means an agreement, written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilised in any employment:

Provided that an agreement made without detriment to a child, and not made in consideration of any benefit other than reasonable wages to be paid for the child's services, and terminable at not more than a week's notice, is not an agreement within the meaning of this definition:

¹Subs. for "Provincial Government" by I. A. O., 1950.

²For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 195.

³Subs. for former sub-sec. (2) by I. A. O., 1950.

⁴Subs. for "except Part B States" by the Part B States (Laws) Act 3 of 1951.

"child" means a person who is under the age of fifteen years; and "guardian" includes any person having legal custody of or control over a child.

3. *Agreements contrary to the Act to be void.*—An agreement to pledge the labour of a child shall be void.

4. *Penalty for parent or guardian making agreement to pledge the labour of a child.*—Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extend to fifty rupees.

5. *Penalty for making with a parent or guardian an agreement to pledge the labour of a child.*—Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledges the labour of the child shall be punished with fine which may extend to two hundred rupees.

6. *Penalty for employing a child whose labour has been pledged.*—Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employs such child, or permits such child to be employed in any premises or place under his control, shall be punished with fine which may extend to two hundred rupees.

THE COAL MINES (CONSERVATION AND SAFETY)

ACT, 1952.

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THE COAL MINES (CONSERVATION AND SAFETY)

ACT, 1952.

No. XII of 1952.¹

[4th March, 1952.]

An Act to provide for the conservation of coal and make further provision for safety in coal mines.

Be it enacted by Parliament as follows:—

1. *Short title and extent.*—(1) This Act may be called the Coal Mines (Conservation and Safety) Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. *Declaration as to expediency of control by Central Government.*—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation of coal mines to the extent hereinafter provided.

3. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Board" means the Coal Board established under section 4;

(b) "blending" means the process of intimately mixing different varieties of coal so as to provide a mixture which on carbonisation results in coke, which, in the opinion of the Board, is suitable for being used in metallurgical industries, particularly in iron and steel industries;

(c) "coal" includes coke in all its forms;

(d) "coking coal" means such type of coal from which on carbonisation coke suitable, in the opinion of the Board, for being used, in metallurgical industries, particularly in iron and steel industries, be prepared;

(e) "Chief Inspector" and "Inspector" mean the persons respectively appointed as the Chief Inspector of Mines and Inspector of Mines under sub-section (1) of section 4 of the Indian Mines Act, 1923 (IV of 1923)² and the provisions of that Act shall apply to the Chief Inspector and to all Inspectors while exercising their powers under this Act or the rules made thereunder;

(f) "Fund" means the Coal Mines Safety and Conservation Fund constituted under section 12;

(g) "India" means the territory of India excluding the State of Jammu and Kashmir;

(h) "prescribed" means prescribed by rules made under this Act;

¹ For Statement of Objects and Reasons, see Gazette of India, d/- February 16, 1952, Pt. II—Sec. 2, p. 46.

² See now the Mines Act 35 of 1952, sec. 2, cls. (d) and (i), respectively.

(i) "soft coke" means all coke which is unsuitable for being used in metallurgical industries, and "hard coke" means all coke which is not soft coke;

(j) "stowing" means the operation of filling with sand or any other material or with both spaces left under-ground in a coal mine by the extraction of coal;

(k) "washing" means such a process or a combination of processes as may be approved in this behalf by the Board by which the whole or any part of the shaley and mineral matter found in the coal is removed therefrom;

(l) "agent", "mine" and "owner" have the meanings respectively assigned to them in section 3 of the Indian Mines Act, 1923 (IV of 1923)¹.

4. *Establishment of the Board.*—(1) There shall be established a Board, to be called the Coal Board,² and such Board shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

(2) The Board shall consist of a Chairman and such number of other members, not exceeding six, as the Central Government may think fit to appoint and the members (including the Chairman) shall hold office during the pleasure of the Central Government for any period not exceeding five years and shall be eligible for re-appointment:

Provided that the Chairman or any other member of the Board may resign his office by giving notice in writing to the Central Government and shall, on such resignation being accepted by that Government, be deemed to have vacated his office.

(3) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy amongst its members (including the Chairman) or any defect in the constitution thereof.

5. *Functions of the Board.*—(1) The Board may, for the purpose of maintenance of safety in coal mines or for conservation of coal, exercise such powers and discharge such duties as may be assigned to it by or under this Act.

(2) The Central Government may, by general or special order, delegate³ to the Board, subject to such conditions and limitations (if any) as may be specified in the order, such of its powers and duties under this Act or under any other law for the time being in force as it may deem necessary for effectively dealing with problems relating

¹ See *ibid.*, sec. 2, cls. (c), (j) and (l), respectively.

² By Notification No. S. R. O. 39, dated 8th January, 1952 the Coal Board was established by the Central Government under sub-secs. (1) and (2) of sec. 4 of the Coal Mines (Conservation and Safety) Ordinance 1 of 1952 (since repealed by this Act—see sec. 19 *post*). Vide Gazette of India Extraordinary, dated 8th January, 1952, Pt. II—Sec. 2, p. 49.

³ Such delegation of powers was made by Notification No. S. R. O. 41 dated 8th January, 1952 under sec. 5(2) of Ordinance No. 1 of 1952. Vide Gazette of India, Extraordinary, dated 8th January, 1952, Pt. II—Sec. 3, p. 49.

to safety in coal mines or conservation of coal and matters connected therewith or incidental thereto.

6. *Powers of the Board in executing operations.*—(1) If in the opinion of the Board, it is necessary or desirable that any measures, including stowing, required in furtherance of the objects of this Act should be undertaken directly by the Board, the Board may execute or cause to be executed such measures under its own supervision.

(2) For the purposes of this section, the Board shall have the right for itself and all persons employed in the execution of any work undertaken under this section to enter upon any property in which the work has to be done, and to do therein all things necessary for the execution of the work.

(3) No person shall obstruct or interfere with the execution of any work undertaken under this section and no person shall remove or tamper with any plant or machinery or any stowing or other materials used in the execution of such work.

(4) Whoever contravenes the provisions of sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

7. *Powers of Central Government in respect of safety in coal mines and conservation of coal.*—(1) The Central Government may, for the purpose of maintenance of safety in coal mines or for conservation of coal, exercise such powers and take or cause to be taken all such measures as it may deem necessary or proper or as may be prescribed.

(2) Without prejudice to the generality of the foregoing power, the Central Government may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such measures as it may think necessary for the purpose of maintenance of safety in coal mines or for conservation of coal, including—

(a) in any coal mine, stowing for safety; or

(b) without prejudice to any order under clause (a), in the case of any coal mine producing coking coal or producing coal which on beneficiation is likely to yield coking coal or producing coal suitable for blending, stowing for conservation; or

(c) washing of coal with a view to beneficiating and reducing the ash contents of coal and improving its coking qualities.

8. *Imposition of excise duties.*—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected—

(a) on all coal raised and despatched, and on all coke manufactured and despatched, from the collieries in India, such duty of excise not exceeding one rupee per ton as may be fixed from time to time by the Central Government by notification in the Official Gazette, and different rates of duty may be levied on different grades or descriptions of coal or coke:

Provided that the Central Government may, by general or special order, exempt any special grade or grades or description of coal or coke from the levy of such duty of excise;

(b) on all coking coal raised and despatched from the collieries in India, such additional duty of excise not exceeding five rupees per ton in the case of coal of Selected Grade A or Selected Grade B, and not exceeding two rupees per ton in the case of coal of Grade I, as may be fixed from time to time by the Central Government by notification in the Official Gazette.

Explanation.—Coal of Selected Grade A, Selected Grade B and Grade I means coal graded as such under the Colliery Control Order, 1945.

(2) Where coking coal, in respect of which an additional duty of excise has been levied and collected under clause (b) of sub-section (1), is despatched to any person for use in India and—

(a) the use of coking coal is, in the opinion of the Central Government, essential for carrying on any industrial or other process in which such person is engaged; or

(b) the despatch of the coking coal is made under the orders of the Board, although it was not specifically indented for by such person;

then, the Central Government shall cause to be paid to that person a sum equivalent to the additional duty of excise so collected on the coking coal received and used by that person.

(3) All notifications issued under this section shall be laid, as soon as may be, before Parliament.

9. Imposition of customs duty.—During the period in which any duty of excise is being levied under section 8, the Central Government may, by notification in the Official Gazette, impose on all coal (including soft and hard coke) imported or brought into India from any place outside India, a duty of customs (which shall be in addition to any duty of customs for the time being leviable under any other law), at rates equivalent to the rates of duties of excise levied under section 8.

10. Collection of excise duties.—The duties of excise levied under section 8 shall be collected by such agencies and in such manner as may be prescribed.

11. Payment to the Coal Board.—The Central Government may, in each financial year, pay to the Board a sum not exceeding the net proceeds (determined in such manner as may be prescribed) of the duties of excise collected under section 8 during the preceding financial year.

12. Money received by the Board to be credited to the Fund.—
(1) The sum referred to in section 11 and any other money received by the Board shall be credited to a Fund to be called the Coal Mines Safety and Conservation Fund which shall be applied by the Board.

in such manner and subject to such conditions as may be prescribed, to—

(a) meeting the expenses in connection with the administration of the Board and the furtherance of the objects of this Act;

(b) the grant of stowing materials and other assistance for stowing operations to the owners, agents or managers of coal mines;

(c) the execution of stowing and other operations in furtherance of the objects of this Act;

(d) the prosecution of research work connected with safety in coal mines or conservation and utilisation of coal;

(e) meeting the cost of administering the Fund and the expenses in connection with Advisory Committees;

(f) the grant to State Governments, research organisations, local authorities and owners, agents or managers of coal mines of money in aid of any scheme approved by the Central Government in furtherance of the objects of this Act;

(g) any other expenditure which the Central Government directs to be defrayed out of the Fund.

(2) The Board shall keep accounts of the Fund; and such accounts shall be examined and audited by the Comptroller and Auditor-General of India at such times and in such manner as he deems fit and the report of the Comptroller and Auditor-General of India shall be laid, as soon as may be, before Parliament.

13. Powers of Inspectors:—(1) The Chief Inspector or any Inspector may make such examination and inquiries as he thinks fit in order to ascertain whether the provisions of this Act or of any rules and orders made thereunder are being complied with.

(2) The Chief Inspector or any Inspector may, with such assistants, if any, as he thinks fit, enter, inspect and examine at any time by day or night any coal mine in respect of which assistance is being, or has been, given under this Act, in order to ascertain the amount of sand or other materials used in stowing in the mine or to ensure that stowing or any other operation towards which assistance may be granted under this Act, has been, or is being, done effectively:

Provided that the power conferred by this sub-section shall not be exercised in such a manner as unreasonably to impede or obstruct the working of the mine.

(3) Without prejudice to the provisions of section 19^a of the Indian Mines Act, 1923 (IV of 1923), the Chief Inspector or any Inspector may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such protective measures, including stowing, in the mine as the Chief Inspector or the Inspector may think necessary, if in the opinion of the Chief Inspector or Inspector—

^a See now sec. 22 of the Mines Act, 35 of 1952 which has repealed Act 4 of 1923.

(a) the extraction or reduction of pillars in any part of the mine is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger human life or the mine, or

(b) adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of any part of the mine or for restricting the area that might be affected by fire or flooding, as the case may be.

(4) The powers conferred on the Inspector under sub-sections (1), (2) and (3) may also be exercised by such officers of the Board suitably qualified in this behalf as the Central Government may, by notification in the Official Gazette, specify in this behalf.

14. Application of Act IV of 1923.—The provisions of sub-sections (3) to (6) (both inclusive⁷) of section 19 of the Indian Mines Act, 1923 (IV of 1923), shall apply to an order made under sub-section (3) of section 13 of this Act as they apply to an order made under sub-section (2) of section 19⁸ of that Act, and all the provisions of the Indian Mines Act, 1923 [except sub-section (1) of section 11⁹ thereof], affecting committees appointed for the purposes of that Act or relating to the disposal of references made to such committees, shall apply, so far as may be, to a committee appointed to inquire into a reference under this Act and to the disposal of such reference:

Provided that the power conferred by the proviso to sub-section (6)¹ of the said section 19 to suspend the operation of a requisition under sub-section (1) of that section² shall include a power similarly to suspend the operation of an order made under sub-section (3) of section 13 of this Act.

15. Advisory Committees.—(1) The Central Government may, by notification in the Official Gazette, constitute one or more Advisory Committees consisting of such number of persons and on such terms and conditions as may be prescribed.

(2) It shall be the duty of the Advisory Committees to advise the Central Government or the Board in regard to any matter connected with the administration of the Act in respect of which their advice is sought by the Central Government, or, as the case may be, by the Board.

16. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against the Chairman or any other member of the Board or any officer thereof or any other person in respect of anything which is in good faith done or intended to be

⁷ See now sub-secs. (2) to (7) (both inclusive) of sec. 22 of Act 35 of 1952.

⁸ See now sub-sec. (2) of sec. 22 of Act 35 of 1952.

⁹ See now sub-sec. (1) of sec. 13 *ibid*.

¹ See now the Proviso to sub-sec. (7) of sec. 22 of Act 35 of 1952.

² See now sub-sec. (1) of sec. 22 of Act 35 of 1952.

done in pursuance of this Act or of any rules or orders made thereunder.

17. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules² to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the measures to be taken for the purpose of maintenance of safety in coal mines or for the conservation of coal;

(b) the levy, collection and payment of the duties of excise and the imposition, collection and payment of the duty of customs;

(c) the appointment and terms and conditions of service of the Chairman and other members of the Board;

(d) the powers and functions of, and the conduct of business by, the Board;

(e) the determination of the net proceeds of the duties of excise for the purposes of section 11;

(f) the manner in which, and the conditions subject to which, sums at the credit of the Coal Mines Safety and Conservation Fund may be applied;

(g) the form in which the accounts of the Fund shall be kept;

(h) the composition of any committee of inquiry which may be appointed to inquire into a reference arising out of an order passed under sub-section (3) of section 13, the technical qualifications to be possessed by persons nominated thereto, and the powers and duties of such committee;

(i) the composition of Advisory Committees, their functions, and the terms and conditions of service of members thereof;

(j) recruitment of officers and staff to be appointed by the Board;

(k) any other matter which has to be, or may be, prescribed.

(3) Any rule made under the provisions of this Act may provide that the contravention thereof shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) All rules made under the provisions of this Act shall be laid, as soon as may be, before Parliament.

² For such rules see the Coal Mines Safety (Stowing) Rules, 1939 which were made under the Coal Mines Safety (Stowing) Act 19 of 1939 under Lab. Notification No. M-955 (2) dated 17th October, 1939. Act 19 of 1939 now stands repealed by this Act, vide sec. 19 *post*. A draft of the rules proposed to be made under sec. 17 of this Act, called the Coal Mines (Conservation and Safety) Rules, 1952, was published with Notification No. S. R. O. 613, d/- 25-3-52 in the Gazette of India, d/- 4-4-52, Pt. II—Sec. 3, pp. 390—404; but the draft has not as yet been finalised. Until such finalisation the Coal Mines Safety (Stowing) Rules, 1939 shall be deemed to have been made under this Act and remain in force. See sub-sec. (2) of sec. 19 *post*.

18. *Act to apply to Government coal mines.*—This Act applies also to coal mines belonging to the Government.

19. *Repeals and savings.*—(1) The Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939) and the Coal Mines (Conservation and Safety) Ordinance, 1952 (I of 1952) are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any rules, notifications or orders made or issued) in the exercise of any power conferred by or under the said Act or Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

(3) As from the 8th day of January, 1952, all the moneys lying to the credit of the Coal Mines Stowing Fund under the Act hereby repealed shall be deemed to have been transferred to, and to vest in, the Board and to form part of the Coal Mines Safety and Conservation Fund.

THE COAL MINES LABOUR WELFARE FUND ACT, 1947.

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SECTIONS.

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2. Interpretation.
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SECTIONS.

6. Coal Mines Labour Housing Board.
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THE COAL MINES LABOUR WELFARE FUND ACT, 1947.

Act No. XXXII of 1947¹.

[18th April, 1947.]

An Act to make better provision for financing measures for promoting the welfare of labour employed in the coal-mining industry.

WHEREAS it is expedient to make better provision for financing measures for promoting the welfare of labour employed in the coal-mining industry, including housing and the provision of dispensary services, and for such purposes to impose a cess and constitute a fund:

It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Coal Mines Labour Welfare Fund Act, 1947.

¹For Statement of Objects and Reasons, see Gazette of India, 1947, Pt. V. p. 317.

(2) It extends to "[the whole of India *][except the State of Jammu and Kashmir]].

(3) It shall come into force on such 'date as the Central Government may, by notification in the official Gazette, appoint.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Advisory Committee" means the Advisory Committee constituted under section 8;

(b) "Commissioner" means the Coal Mines Labour Welfare Commissioner appointed under section 9, and includes any officer authorised in writing by the Commissioner to exercise any of his functions under this Act;

(c) "Housing Board" means the Coal Mines Labour Housing Board constituted under section 6;

(d) "Fund" means the Coal Mines Labour Housing and General Welfare Fund constituted under section 4;

(e) "prescribed" means prescribed by rules made under this Act.

3. Imposition and collection of duty.—(1) There shall be levied and collected as a cess for the purposes of this Act a duty of excise on all coal and coke despatched from collieries in ²[the territories to which this Act extends], at such rate not less than four annas and not more than eight annas per ton, as may from time to time be fixed by the Central Government by 'notification in the official Gazette;

Provided that the Central Government may, by notification in the official Gazette, exempt from liability to the duty any specified class or classes of coal or coke.

(2) The duty levied under sub-section (1) shall, subject to and in accordance with rules made in this behalf, be collected by such agencies and in such manner as may be prescribed.

4. Coal Mines Labour Housing and General Welfare Fund.—(1) The proceeds of the duty levied under section 3 shall be paid by the collecting agencies into the Reserve Bank of India at Calcutta in the prescribed manner, and shall be credited to a fund to be called the Coal Mines Labour Housing and General Welfare Fund, and apportioned under two separate accounts, to be called the housing account of the Fund and the general welfare account of the Fund, in such manner as the Central Government from time to time may, by 'notification in the official Gazette, determine:

²Subs. by I. A. O., 1950, for "all the Provinces of India" which had been subs. for "the whole of British India" by I. A. O., 1948.

³Subs. for "except Part B States" by the Part B States (Laws) Act 3 of 1951.

⁴14th June, 1947. see Gazette of India, 1947, Pt. I, p. 838.

⁵Subs. by Act 3 of 1951 for "Part A States and Part C States" which had been subs. for "the Provinces" by I. A. O., 1950.

⁶For such notifications see Gazette of India, 1944, Pt. I, p. 1404 and *ibid.* 1947, Pt. I, p. 838.

⁷For such notification, see Gazette of India, 1947, Pt. I, p. 1250.

Provided that there shall at all times be credited—

(a) to the housing account of the Fund, not less than one anna and four pies, and

(b) to the general welfare account of the Fund, not more than four annas and eight pies,—

out of the duty collected under this Act on every ton of coal or coke.

(2) There shall also be credited to the housing account of the Fund—

(a) any grants made thereto by the Central Government;

(b) rents, if any, realised from housing accommodation constructed out of such account;

(c) any other moneys received by the Housing Board.

5. *Expenditure from the Fund.*—(1) The cost of administering the Fund and the salaries and allowances, if any, of the Commissioner, Inspectors, Welfare Officers and other staff appointed to supervise or carry out measures financed from the Fund shall be defrayed out of the Fund, and shall be apportioned between and debited to the housing account and the general welfare account in such manner as may be prescribed.

(2) The Central Government may out of the general welfare account of the Fund pay annually grants-in-aid to such of the colliery owners as maintain to the satisfaction of the Commissioner dispensary services of the prescribed standard for the benefit of labour employed in their collieries, so however that the amount payable as grant-in-aid to the owner of a colliery shall not exceed—

(i) the amount of the duty at the rate of eight pies per ton recovered in respect of coal or coke despatched from the colliery less the proportionate cost of recovery, or

(ii) the amount spent by the owner of the colliery in the maintenance of the dispensary service, as determined by the Commissioner, whichever is less:

Provided that no grant-in aid shall be payable in respect of any dispensary service maintained by the owner of the colliery if the amount expended thereon, as determined by the Commissioner, is less than eighty rupees per mensem.

(3) The balance of the moneys in the general welfare account of the Fund shall be applied by the Central Government to meet expenditure incurred in connection with measures which are in the opinion of the Central Government necessary or expedient to promote the welfare of labour employed in the coal-mining industry.

(4) Without prejudice to the generality of sub-section (3) the moneys in the general welfare account of the Fund may be utilised to defray—

(a) the cost of measures for the benefit of labour employed in the coal-mining industry directed towards—

(i) the improvement of public health and sanitation, the preven-

tion of disease, the provision of medical facilities and the improvement of existing medical facilities, including the provision and maintenance of dispensary services in collieries the owners of which do not receive grants-in-aid under sub-section (2),

(ii) the provision of water-supplies, and facilities for washing and the improvement of existing supplies and facilities,

(iii) the provision and improvement of educational facilities,

(iv) the improvement of standards of living, including nutrition, amelioration of social conditions, and the provision of recreational facilities,

(v) the provision of transport to and from work;

(b) the grant to a "[State Government], a local authority or the owner, agent or manager of a coal mine of money in aid of any scheme approved by the Central Government for any purpose for which moneys in the general welfare account of the Fund may be utilised;

(c) the allowances, if any, of the members of the Advisory Committee and the amounts debitable to the account under sub-section (1);

(d) any other expenditure which the Central Government directs to be defrayed out of the moneys in the general welfare account of the Fund.

(5) The Central Government shall publish annually in the official Gazette an estimate of receipts into and expenditure from the general welfare account of the Fund together with a statement of the accounts and a report of the activities financed during the previous year from the general welfare account of the Fund, and shall forward copies of such statement and report to members of the Advisory Committee.

(6) The moneys in the housing account of the Fund shall be applied by the Housing Board to defray—

(a) the cost of erecting, maintaining and repairing housing accommodation for labour employed in the coal-mining industry and of providing services and facilities connected therewith;

(b) the cost of preparing schemes, and of acquiring any land required, for the purposes referred to in clause (a);

(c) the grant, subject to the previous approval of the Central Government, to a "[State Government], a local authority or the owner, agent or manager of a coal mine of money in aid of any scheme approved by the Housing Board for the purposes referred to in clauses (a) and (b);

(d) the allowances, if any, of members of the Housing Board and the amounts debitable to the account under sub-section (1);

(e) any other expenditure which the Central Government directs to be defrayed out of the moneys in the housing account of the Fund.

(7) In February of each year the Housing Board shall submit to the Central Government a statement in the prescribed form of the estimated receipts into and expenditure from the housing account of

the Fund for the ensuing financial year together with a report of the activities financed during the previous year from the housing account of the Fund, and may at any time during the ensuing financial year submit to the Central Government a supplementary statement and shall forward copies of such statements and report to members of the Advisory Committee.

(8) The Housing Board shall comply with such directions as the Central Government may from time to time think fit to give in respect of expenditure from the housing account of the Fund.

(9) The Housing Board may invest moneys in the housing account of the Fund in securities of the Government of India or, with the previous approval of the Central Government, in other securities.

(10) The Housing Board shall cause to be maintained such books of account as may be prescribed and shall prepare in the prescribed manner an annual statement of the accounts.

(11) The Housing Board shall cause the housing account of the Fund to be audited annually by a person qualified under the provisions of section 144 of the Indian Companies Act, 1913 (VII of 1913), to act as an auditor of companies, and as soon as the said account has been audited the Housing Board shall forward copies thereof together with copies of the report of the auditor thereon to the Central Government and to members of the Advisory Committee.

(12) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the housing account, or the general welfare account, of the Fund, and its decision shall be final.

(13) Before incurring any expenditure from the Fund other than expenditure of a routine or urgent nature the Central Government or, as the case may be the Housing Board, shall consult the Advisory Committee.

6. Coal Mines Labour Housing Board.—[(1) The Central Government shall, by notification in the official Gazette, constitute a Coal Mines Labour Housing Board for the following purposes, namely:—

(a) to prepare and carry out, subject to the previous approval of the Central Government, schemes financed from the housing account of the Fund for the provision of suitable housing accommodation for labour employed in the coal mining industry;

(b) to prepare plans and estimates for, and construct or carry out, such works of erection, maintenance and repair financed from the general welfare account of the Fund as the Central Government may, by general or special order, specify; and

(c) to carry out any other functions assigned to the Housing Board by or under this Act.]

⁶ Subs. for original sub-sec. (1) by the Coal Mines Labour Welfare Fund (Am.) Act 28 of 1949.

(2) The Commissioner shall be the chairman of the Housing Board, and the other members thereof shall be appointed by the Central Government and shall be of such number and chosen in such manner as may be prescribed.

(3) The Housing Board shall be a body corporate by the name of the Coal Mines Labour Housing Board, having perpetual succession and a common seal, with power to acquire property both movable and immovable, and shall by the said name sue and be sued.

(4) No act done by the Housing Board shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Housing Board.

7. *Provisions regarding housing accommodation.*—(1) The occupation by any person of any housing accommodation provided out of the housing account of the Fund shall be subject to compliance by that person at all times with such conditions relating to his occupation of such accommodation as may be prescribed.

(2) Before any person occupies any such accommodation he shall be furnished with a copy of the conditions referred to in sub-section (1), and if he so desires the said conditions shall be read over to him in a language which he understands; and the Housing Board shall cause to be published in such manner as it thinks best adapted for informing the persons concerned any changes which may from time to time be made in the said conditions.

(3) If, in the opinion of the Housing Board, any person in occupation of any such accommodation fails or ceases to comply with any of the conditions referred to in sub-section (1), it may, by notice in writing, require him to vacate the accommodation on or before such date, not being less than thirty days after the service of the notice, as may be specified in the notice; and the occupation of such accommodation by such person or any dependent of his after the date so specified shall be unlawful, and such person or dependent may be evicted accordingly by due process of law from such accommodation.

(4) There shall be payable in respect of the occupation of any such accommodation as aforesaid rent at such rate as may be prescribed:

Provided that the Housing Board may remit, subject to compliance at all times with the conditions referred to in sub-section (1), either the whole or any part of the prescribed rent:

Provided further that where, in the case of any person who is by virtue of a remission under the first proviso paying either no rent or a reduced rent, the Housing Board has reason to believe that such person has contravened any of the said conditions, it may by notice in writing require such person to pay, with effect on and after the expiry of seven days from the service of the notice, rent for the accommodation occupied by him at the full prescribed rate.

(5) All rent payable in respect of the occupation of such accommodation as aforesaid, whether at the full prescribed rate or at a lesser rate, shall be recoverable as an arrear of land revenue.

8. Advisory Committee.—(1) The Central Government shall, by notification in the official Gazette, constitute an Advisory Committee, to advise on matters on which the Central Government or the Housing Board is required by this Act to consult the Committee and on any other matters arising out of the administration of this Act which the Central Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the Central Government and shall be of such number and chosen in such manner as may be prescribed:

Provided that the Advisory Committee shall include an equal number of members representing Government, the owners of coal mines and workmen employed in the coal-mining industry, and that at least one member of the Advisory Committee shall be a woman.

(3) The chairman of the Advisory Committee shall be an officer of the Central Government appointed by the Central Government.

9. Appointment and powers of officers.—(1) The Central Government may appoint a Coal Mines Labour Welfare Commissioner and such number of Inspectors, Welfare Officers and other staff as it thinks fit to supervise and carry out measures financed from the Fund.

(2) Any person so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

(3) The Commissioner or any Inspector or Welfare Officer may, with such assistance, if any, as he thinks fit, enter at all reasonable times any place which he considers it necessary to enter for the purpose of supervising or carrying out the measures financed from the Fund, and may do therein anything necessary for the proper discharge of his duties.

10. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, and subject to the condition of previous publication, make rules¹ to carry into effect the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(i) the manner in which the duty levied under sub-section (1) of section 3 shall be collected, the persons who shall be liable to make the payments, the making of refunds, remissions and recoveries, the deduction by collecting agencies of a percentage of the realizations to cover the cost of collection, and the procedure to be followed in remitting the proceeds to the Reserve Bank of India:

¹See the Coal Mines Labour Welfare Fund Rules, 1949, (vide Ministry of Labour Notification No. L. W. 1(1) 48, dated 7th February, 1949) at p. 30 *post*.

(ii) the composition of the Housing Board, the manner in which its members shall be chosen, the term of office of its members, the allowances if any payable to them and the manner in which the Housing Board shall conduct its business, including the number of members necessary to form a quorum at a meeting thereof;

(iii) the books of account to be maintained by the Housing Board, and the form of its financial estimates and statements of account;

(iv) the composition of the Advisory Committee, the manner in which its members shall be chosen, the term of office of its members, the allowances if any payable to them and the manner in which the Advisory Committee shall conduct its business;

(v) the apportionment between the housing account and the general welfare account of the Fund of the expenditure on the administration of the Fund and on the salaries and allowances of the Commissioner, Inspectors, Welfare Officers and other staff employed for the purposes of this Act;

(vi) the standard of dispensary service to be provided by owners of collieries for the purposes of sub-section (2) of section 5, and the inspection and supervision of the dispensaries and other places at which such services are provided;

(vii) the application by owners of collieries for grants-in-aid, the authority to whom and the manner in which such application shall be made and the particulars to be specified in such applications;

(viii) the manner in which dispensary services may be provided by the Central Government;

(ix) the conditions governing the grant of money from the general welfare account of the Fund to a [State Government]², a local authority or the owner, agent or manager of a coal mine;

(x) the rate of rent for housing accommodation provided out of the housing account of the Fund;

(xi) the conditions of service and the duties of Inspectors, Welfare Officers and other officers appointed to supervise or carry out measures financed from the Fund;

(xii) the duties and functions of the Commissioner;

(xiii) the furnishing by owners, agents or managers of coal mines of statistical or other information, and the punishment by fine not exceeding two hundred rupees on failure to comply with the requirements of any rules made under this clause;

(xiv) any other matter which under this Act is to be or may be prescribed.

II. Repeal of Ord. VII of 1944.—(1) The Coal Mines Labour Welfare Fund Ordinance, 1944, is hereby repealed.

(2) For the avoidance of doubts it is hereby declared that the provisions of section 6 of the General Clauses Act, 1897 (X of 1897), shall apply to the repeal effected by this section.

² Subs. for "Provincial Government" by I. A. O., 1950.

(3) Any balance remaining in the Fund constituted under the aforesaid Ordinance shall be credited to the Fund constituted under this Act, and shall be apportioned between the housing account and the general welfare account of such Fund in such manner as the Central Government may determine.

THE COAL MINES LABOUR WELFARE FUND RULES, 1949¹.

CHAPTER I.

GENERAL.

1. *Short title.*—(1) These rules may be called THE COAL MINES LABOUR WELFARE FUND RULES, 1949.

²[(2) They extend to the whole of India except the State of Jammu and Kashmir.]

³[2. *Definitions.*—In these rules, unless the context otherwise requires—

(a) 'the Act' means the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947);

(b) 'Chairman' means the Chairman of the Advisory Committee constituted under section 8 of the Act;

(c) 'Commissioner' means the Coal Mines Labour Welfare Commissioner appointed under section 9 of the Act;

(d) 'form' means a form appended to these Rules;

(e) 'member' means a member of the Advisory Committee or the Housing Board, as the case may be;

(f) 'owner' in relation to a colliery includes a lessee, or mortgagee in possession of such colliery, and any partner, managing director, agent, manager or any other person authorized to represent the colliery in its transactions;

(g) 'month' means a complete month reckoned according to the English Calendar;

(h) 'treasury' means any Government treasury or sub-treasury.]

CHAPTER II.

ADVISORY COMMITTEE, SUB-COMMITTEES AND HOUSING BOARD.

3. *Advisory Committee.*—(1) (a) The Advisory Committee shall consist of the following members, namely:—

(i) the Secretary to the Government of India in the Ministry of Labour, who shall be the Chairman;

¹ See Notification No. L. W. 1(1)/48, dated 7th February, 1949.

² Subs. for former sub-rule (2) by Notification No. S. R. O. 1466, dated 11th September, 1951; see Gazette of India, dated 22nd September, 1951, Pt. II—Sec. 3, p. 1610.

³ Subs. for former rule 2 by Notification No. L. W.—1(4) 47 (1), dated 27th February, 1950; see Gazette of India, dated 11th March, 1950, Part I—Sec. I.

(ii) the Coal Mines Labour Welfare Commissioner, who shall be the Vice-Chairman;

(iii) the Chief Inspector of Mines;

(iv) one official nominated by the Government of West Bengal;

(v) one official nominated by the Government of Bihar;

(vi) one official nominated by the Government of Madhya Pradesh;

(vii) two persons nominated by the Indian Mining Association;

(viii) one official nominated by the Central Government to represent the State Railway Collieries;

(ix) one person nominated by the Indian Mining Federation;

(x) one person nominated by the Indian Colliery Owners Association;

(xi) one person nominated by the Central Provinces and Berar Mining Association;

(xii) six persons nominated by the Central Government to represent the interests of the workmen employed in coalmines;

(xiii) a woman nominated by the Central Government if no woman has been nominated under clause (xii) above;

(xiv) two mining engineers to be nominated by the Central Government, one on the recommendation of the Indian Mine Managers' Association and the other on that of the National Association of Colliery Managers.

(b) the Hon'ble Minister for Labour in the Central Government may attend any meeting of the Advisory Committee and when he does, he shall, notwithstanding anything contained in sub-rule (1) (a) (i), preside at the meeting.

(2) If the seat of a member nominated by a body other than the Central Government falls vacant, the Central Government shall, within two months of the falling vacant of such seat, by notice in writing, call upon the body concerned to nominate a person to fill the vacancy, and the nomination shall be made within thirty days of the date of issue of such notice:

Provided, that if the body fails to make the nomination within the period specified the Central Government may nominate a person to fill the vacancy.

(3) If a nominated member is unable to attend a meeting of the Advisory Committee, the Central Government or the body which nominated him may, by notice in writing signed on its behalf and by the said member and addressed to the Chairman of the Committee, nominate a substitute in his place to attend the meeting. Such a substitute shall have all the rights of a member in respect of that meeting.

4. *Executive Committee of the Advisory Committee.*—(a) The Executive Committee of the Advisory Committee shall consist of the Chairman, the Vice-Chairman, and Secretary to be nominated by the Chairman.

(b) The office of the Committee shall be situated in or adjacent to the West Bengal or Bihar coalfields.

(c) The Secretary shall carry out routine duties and the Vice-Chairman shall exercise such other powers and discharge such other duties of the Chairman as may be delegated by him.

5. *Sub-Committees.*—(1) The Advisory Committee shall constitute the following Sub-Committees to carry out the functions assigned to each, namely:—

(a) Finance Sub-Committee consisting of five members to frame schemes involving expenditure and to advise generally regarding the budget, maintenance of accounts and all expenditure debitable to the fund; and

(b) Coalfield Sub-Committees, each consisting of five members, one for each of the main coalfields in West Bengal, Bihar, Madhya Pradesh and Assam to consider and advise on all matters relating to expenditure from the Fund in their respective coalfields.

(2) Subject to sub-rule (4) of this rule, the Vice-Chairman of the Advisory Committee shall be the Chairman of the Finance Sub-Committee and a member of the Advisory Committee concerned with the particular coalfield shall be the Chairman of the particular Coalfield Sub-Committee. The Vice-Chairman of the Advisory Committee shall be entitled to attend meetings of the Coalfield Sub-Committees.

(3) All members of the Coalfield Sub-Committees, except one, and all members of the Finance Sub-Committee except the Coal Mines Welfare Commissioner, shall be non-officials and in each sub-committee there shall be equal representation of the colliery-owners and workmen employed in the coal mining industry.

(4) Notice of every meeting of a Sub-Committee shall be sent also to the Chairman of the Advisory Committee who may attend the meeting and, notwithstanding anything in sub-rules (2) and (3), preside at any meeting if he so desires, and when he does, he shall be entitled to vote.

(5) The members of the Finance Sub-Committee shall be chosen by the Advisory Committee from amongst members of the Committee.

(6) The members of each Coalfield Sub-Committee shall be nominated by the Advisory Committee as far as possible from amongst persons other than the members of the Advisory Committee.

(7) The meetings and proceedings of every Sub-Committee shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Advisory Committee and the Housing Board in so far as the same are applicable thereto. The quorum for a meeting of a Sub-Committee shall be three members empowered to vote.

6. *Housing Board.*—(1) The Housing Board shall consist of:—

(i) The Coal Mines Welfare Commissioner who shall be the Chairman of the Board;

(ii) The Chief Inspector of Mines;

(iii) The Superintending Engineer, Coal Mines Labour Welfare Fund; and

(iv) Six persons nominated by the Central Government in consultation with the Advisory Committee.

(2) If a nominated member is unable to attend a meeting of the Housing Board, the Central Government may by notice in writing signed by an officer authorized in this behalf and by the said member and addressed to the Chairman of the Board, nominate a substitute in his place to attend that meeting. Such a substitute shall have all the rights of a member in respect of that meeting.

7. Power to co-opt members.—(1) The Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons as members of the Advisory Committee or any Sub-Committee. The Housing Board may likewise at any time and for such period as it thinks fit co-opt any person or persons as members of the Housing Board.

(2) A member co-opted under sub-rule (1) shall exercise all the powers and functions of a member under these rules, except that he shall not be entitled to vote on any question coming before the Advisory Committee or the Housing Board.

8. Term of office of members.—(1) A nominated member shall, unless he resigns his office or dies, hold office for a period of three years from the date of the notification appointing him a member of the Advisory Committee or the Housing Board and shall be eligible for renomination:

Provided that an outgoing member shall continue in office until the appointment of his successor is notified.

(2) A member nominated to fill a casual vacancy or, in the case of the Advisory Committee, a member appointed by the Central Government under the proviso to rule 3 (2) shall hold office for as long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred, or if the nomination, as required by the rule aforesaid, had been made.

***[9. Remuneration to members.**—Every non-official member, including a non-official member co-opted under rule 7 shall be entitled to the following allowances for attending each meeting of the Coal Mines Labour Welfare Fund Advisory Committee or any of its Sub-Committees or the Housing Board or any of its Sub-Committees provided that the non-official member is not resident at the place where the meeting is held:—

*Subs. for former Rule 9 by Notification No. S. R. O. 570, d/- 31-8-50, pub. in Gazette of India, d/- 9-9-50, Pt. II—Sec. 3, p. 611.

TRAVELLING ALLOWANCE.

- (b) In respect of journey by air. Actual fares paid.
- (b) In respect of journey by rail. 1½ first class fares.
- (c) In respect of journey by road.

Where the journey is performed entirely by road, mileage at the rates admissible to Central Government servants of the first grade, subject to the condition that the member concerned furnishes a certificate to the effect that the journey was undertaken by road to avoid loss of time which journey by rail would have entailed, provided further that if the distance travelled by road exceeds 75 miles in a single journey, mileage allowance will be payable only for the first 75 miles for each journey.

DAILY ALLOWANCE.

Rs. 10-0-0 (ten) for each day of any meeting or meetings subject to a maximum of Rs. 30-0-0 (thirty) for any calendar month.

Non-official members, who are resident at the places where the meetings are held, shall be entitled only to the actual cost of conveyance hire subject to a maximum of Rs. 10-0-0 (ten) per day.

The allowances referred to above shall be admissible on production of a certificate by the non-official members to the effect that they have not claimed or drawn travelling or daily allowance in respect of the journeys and halts from any other source.]

10. Resignation.—A non-official nominated member may resign his office by letter addressed to the Chairman of the Advisory Committee or the Housing Board, as the case may be.

11. Absence from India.—(1) Before a non-official nominated member leaves India, he shall intimate to the Chairman of the Advisory Committee or the Housing Board, as the case may be, the date of his departure from, and the date of his expected return to India and if he intends to be absent from India for a period longer than six months, he shall tender his resignation.

(2) If any such member leaves India without complying with sub-rule (1), he shall be deemed to have resigned with effect from the date of his departure from India.

12. Vacation of office.—A nominated member shall be declared by the Chairman of the Advisory Committee or the Housing Board to have vacated his office—

(a) if he becomes insolvent; or

(b) if he is convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) if he is absent from three consecutive meetings of the Advisory Committee or the Housing Board without leave of absence from its Chairman; or

(d) if, in the opinion of the Central Government it is undesirable that he should continue to be a member of the Advisory Committee or the Housing Board.

PROCEDURE RELATING TO MEETINGS.

13. Disposal of business.—(1) Every question which the Advisory Committee or the Housing Board is required to take into consideration shall be considered either at its meetings or, if its Chairman so directs, by sending the necessary papers to all members for their opinion:

Provided that the papers need not be sent to a member who is absent from India.

(2) Where a question is referred for opinion under sub-rule (1), any member may request that the question be considered at a meeting of the Advisory Committee or the Housing Board and thereupon the Chairman may and, if the request is made by five or more members in the case of the Advisory Committee and three or more members in the case of the Housing Board, shall direct that it be so considered.

14. Time and place of meetings.—The Advisory Committee or the Housing Board shall meet at such place and time as may be appointed by its Chairman.

15. Notice of meetings.—(1) Notice shall be given to every member present in India of the time and place fixed for each ordinary meeting at least fifteen days before such meeting in the case of the Advisory Committee and at least seven days before such meeting in the case of the Housing Board, and each member shall be furnished with a list of business to be disposed of at that meeting:

Provided that when an emergent meeting is called by the Chairman of the Advisory Committee or the Housing Board, such notice shall not be necessary.

(2) No business which is not on the list shall be considered at a meeting without the permission of the Chairman of the Advisory Committee or the Housing Board as the case may be.

16. Presiding at meetings.—The Chairman of the Advisory Committee shall, save as provided in clause (b) of sub-rule (1) of rule 3, preside at every meeting of the Committee at which he is present. If the Chairman is absent from any meeting, the Vice-Chairman shall preside at that meeting and if both the Chairman and the Vice-Chairman are absent, the members present shall elect one of their members to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman of the Committee. In the case of the Housing Board, the Chairman of the Housing Board shall preside at every meeting of the Board at which he is present. If the

Chairman is absent from any meeting, the members present shall elect one of their members to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman of the Board.

17. Quorum.—No business shall be transacted at a meeting of the Advisory Committee or the Housing Board, whether ordinary or emergent, unless at least five members empowered to vote in the case of the Advisory Committee and three members empowered to vote in the case of the Housing Board are present:

Provided that if at any meeting less than this number of members attend, the Chairman of the Advisory Committee or the Housing Board as the case may be, may adjourn the meeting to a date not less than seven days later, informing the members present and sending notice to other members that he proposes to dispose of the business at the adjourned meeting, whether there is a quorum or not, and he may thereupon dispose of the business at such adjourned meeting.

18. Decision by majority.—(1) Every question at a meeting of the Advisory Committee or the Housing Board shall be decided by a majority of votes of the members present and voting on that question but the minority shall have the right of requiring their dissent to be noted.

(2) Every question referred to the members for opinion shall, unless the Chairman of the Advisory Committee or the Housing Board in pursuance of sub-rule (2) of rule 13 reserves it for consideration at a meeting, be decided in accordance with the opinion of the majority of members who have submitted their opinions within the time allowed.

(3) In the case of an equal division of votes or opinions, the Chairman of the Advisory Committee or the Housing Board as the case may be, shall give an additional vote or opinion.

19. Minutes of meetings.—(1) The proceedings of each meeting of the Advisory Committee or the Housing Board shall be circulated to all members of the Advisory Committee or the Housing Board, as the case may be, present in India and thereafter recorded in a minute book which shall be kept for permanent record. In the case of the Housing Board, the proceedings shall also be circulated to all members of the Advisory Committee present in India.

(2) The record of the proceedings of each meeting shall be signed by the Chairman of the Advisory Committee or the Housing Board as the case may be.

POWERS OF THE CHAIRMAN OF THE ADVISORY COMMITTEE.

20. Staff.—^a[(1) Subject to financial provision in the sanctioned budget and to the provisions of rule 21, the Chairman of the Advisory

^aSubs for former sub-rule (1) by Notification No. S. R. O. 1305, d/- 17-7-52. (vide Gazette of India, d/- 26-7-52, Pt. II—Sec. 3, p. 1153).

Committee may create technical and other posts for carrying out the purposes of the Act, may fix the scale of establishment and the salaries and allowances of the staff employed by him and may require security to be taken in such cases and for such amount as he thinks fit:

Provided that the creation of a post with a maximum salary exceeding Rs. 300 per month shall require the previous sanction of the Central Government.]

(2) The Chairman of the Advisory Committee may authorise the staff to give assistance to any Sub-Committee of the Advisory Committee, to the Housing Board or to any other authority exercising executive or advisory functions in connection with the Act or to any person getting a grant from the Fund.

21. Schemes of expenditure.—(1) The Chairman of the Advisory Committee shall have power to incur expenditure on administrative staff and sanctioned welfare and housing schemes to the extent of the financial provision in the sanctioned budget:

Provided that—

(i) he shall have no power to sanction the creation of a post on a salary of more than Rs. 500 per month and shall have only such powers of re-appropriation as may be approved by the Central Government after considering the advice of the Advisory Committee;

(ii) he shall have no power to incur expenditure on a scheme that has not been sanctioned by the Central Government if the cost of such a scheme exceeds Rs. 20,000 non-recurring ^a[and] Rs. 2,500 per annum recurring.

(2) The Chairman of the Advisory Committee may, with the concurrence of the appropriate Sub-Committee approve any new scheme costing ^b[not more than] Rs. 20,000 non-recurring and Rs. 2,500 per annum recurring. All other schemes shall require the sanction of the Central Government which shall be applied for by the Chairman of the Advisory Committee after consulting it.

Where the Central Government does not approve a new scheme forwarded by the Chairman of the Advisory Committee, he shall be so informed within three months, and the Chairman shall inform the Advisory Committee or if the matter concerns only a particular coal-field, the appropriate Sub-Committee.

^c[(3) Subject to financial provision in the sanctioned budget, the Vice-Chairman of the Advisory Committee shall have power to incur any sanctioned expenditure and shall, with the concurrence of the appropriate Sub-Committee or Housing Board, also have power to sanction any new welfare and housing scheme, if the cost of such a scheme does not exceed Rs. 10,000 non-recurring and Rs. 1,000 per annum recurring.]

^aSubs. for "or" by *ibid.*, (*vide ibid.*).

^bSubs. for "less than" by *ibid.*, (*vide ibid.*).

^cSubs. for former sub-rule (3) by *ibid.*, (*vide ibid.*).

22. Contingent expenditure.—The Chairman of the Advisory Committee may sanction, without reference to it, expenditure on contingencies, supplies and services and purchase of articles [* * *] subject to financial provision in the sanctioned budget and to the condition that the expenditure on any single object shall not exceed ¹[Rs. 2,000 non-recurring and Rs. 400 per annum recurring].

POWERS OF ADVISORY COMMITTEE

23. Budget.—(1) The Annual budget of the General Welfare Fund prepared by the Executive Committee in consultation with the Finance Sub-Committee shall be considered by the Advisory Committee in January each year. Thereafter the budget as finally approved by the Advisory Committee shall be forwarded for sanction to the Central Government which may make such alterations therein as it considers necessary before according its sanction.

(2) *Other matters to be considered by Committee.*—Besides its statutory duties, the Advisory Committee shall consider and report on the budget and on any matter referred to it by the Central Government or by the Chairman of the Advisory Committee for advice.

If not less than five members request the Chairman of the Advisory Committee to refer any matter to the Advisory Committee, he shall refer it accordingly.

(3) *Committee to be informed of expenditure.*—A memorandum setting forth any grant made or expenditure incurred from the Fund since the last meeting shall be laid at each meeting of the Advisory Committee.

24. Powers of the Housing Board.—(1) The Housing Board shall, subject to the previous approval of the Central Government, frame bye-laws—

(i) specifying the conditions relating to occupation to be observed by the allottees;

(ii) providing for the manner in which allotment of housing accommodation shall be made;

(iii) fixing the rates at which rent is to be recovered and the manner of recovery; and

(iv) generally for carrying out the functions of the Board under the Act.

(2) The Housing Board shall submit to the Central Government a statement in Form A as required by sub-section (7) of section 5 of the Act.

(3) (a) The Housing Board shall prepare and submit in January each year to the Advisory Committee and the Central Government an annual statement of the accounts in Form B.

¹ The words "required for the working of the office of the Advisory Committee and the Housing Board" omitted by *ibid.* (*vide ibid.*).

² Subs. for "Rs. 500" by *ibid.* (*vide ibid.*).

(b) The annual account shall be accompanied by a statement of investments in Form C made under sub-section (9) of section 5 of the Act.

(4) The Housing Board shall also maintain separate accounts for the following:—

- (a) Progressive expenditure on every approved scheme;
- (b) loan repayment account;
- (c) cost of acquisition of land for building; and
- (d) depreciated value at the end of each financial year of buildings whose cost has been debited to the housing account.

(5) All agreements and instruments entered into by the Housing Board shall be signed by the Chairman on behalf of the Housing Board.

CHAPTER III.

FINANCIAL PROVISIONS.

25. Allocation of expenditure from the Fund between the General Welfare Account and the Housing Account.—The cost of administering the Fund and the salaries and allowances of the officers and staff employed by the Fund shall be appropriated between the housing account and the general welfare account in the proportion of two to seven.

26. Grants.—(1) In each case in which a grant is made by, or with the approval of the Central Government, from the general welfare account or the housing account of the Fund to a State Government, a local authority, or the owner of a coal mine, in aid of any scheme approved by the Central Government for any purpose for which the monies in the general welfare account or the housing account may be utilised, the Central Government may impose conditions necessary for ensuring—

(a) that the work for which the grant is made is duly and promptly executed and the money is actually utilised for the purpose for which it is granted;

(b) that the data on which the grant is calculated are in accordance with facts;

(c) that any particulars which the Central Government may from time to time require for the proper discharge of its responsibilities are promptly supplied;

(d) that all necessary facilities for inspection are accorded to persons duly authorised by the Central Government for the purpose of clause (a) or for checking the corrections of any particulars supplied under clause (c) or for the collection of any such particulars; and

(e) that proper accounts of the money granted are kept and are submitted for audit by such persons as the Central Government may authorise in this behalf.

(2) Before making a grant from the general welfare account or the housing account of the Fund to a local authority or to the owner

of a coal mine, the Central Government shall require such local authority or owner to execute a bond for the fulfilment of conditions imposed by the Central Government under sub-rule (1).

(3) It shall be a condition of every bond executed under sub-rule (2) that in the event of the local authority or owner of the mine violating any condition imposed under sub-rule (1), such local authority or owner shall be liable to pay to the Central Government such ~~sum~~ by way of penalty as may be specified in the bond.

27. Recovery of excise duty.—(1) The duty of excise imposed under section 3 of the Act on coal and coke shall, when such coal or coke is despatched by rail from collieries, to any station in India, be collected by the Railway Administration concerned by means of surcharge on freight and such duty of excise shall be recovered—

(a) from the consignor, if the freight charges are prepaid at the forwarding station; or

(b) from the consignee, if the freight charges are collected at the destination of the consignment; or

(c) from the party paying the freight if the consignment is booked on the weight system.

(2) Where coal or coke is despatched by rail from collieries to any station outside India, the duty of excise shall be recovered from the consignor at the forwarding station.

(3) In calculating the amount of duty of excise payable on any one consignment a fraction of an anna shall be rounded off to the nearest anna.

28. Weight for charge.—For the purpose of the levy of the excise duty, the actual weight of a consignment rounded off to the nearest ton, shall be taken into account.

29. Remittance of excise duty.—(1) The total amount of excise duty collected by each Railway Administration less—

(a) refunds and write-offs authorised by the Railway Administration, under rule 30; and

(b) deduction of such percentage as the Central Government may, by notification in the official Gazette, fix towards the cost of collection, shall, under advice to the Accountant-General, Bihar, be remitted quarterly to the Reserve Bank of India at Calcutta to the credit of the Central Government.

(2) An amount equivalent to the amount of excise duty credited to the Central Revenue under sub-rule (1) shall be transferred to the Coal Mines Labour Housing and General Welfare Fund.

(3) The amount of the excise duty remitted during a financial year by a Railway Administration under sub-rule (1) shall be certified as soon as possible after the close of the financial year by such officer or officers as the Central Government may appoint in this behalf.

(4) The certificates under sub-rule (3) shall be sent to the Central

Government and copies thereof to the Accountant-General, Bihar, and to the Coal Mines Welfare Commissioner by the officers concerned.

30. Refunds and recoveries.—(1) When the amount of the duty of excise due under these rules has not been collected either wholly or in part or where the amount collected is in excess of the amount due, the Railway Administration shall have the right to recover the under-charge and the liability to refund the over-charge on the same principles as apply to under-charge and over-charge in regard to railway freight charges.

(2) When it is proved to the satisfaction of the Central Government or of any person authorised in this behalf by the Central Government, that any coal on which the duty of excise under section 3 of the Act had been collected has been used in the manufacture of any coke on which the duty has also been collected, the Central Government or the person authorised in this behalf by the Central Government may order refund of an amount equal to the duty collected on such coal to the person from whom such duty was collected:

Provided that no claim for such refund relating to a period prior to the 15th May, 1952, shall be entertained unless it is preferred by 31st December, 1952.

²[Provided further that no claim for any such refund relating to a period prior to the 15th May, 1951, shall be entertained unless it is preferred by the 31st December, 1952.]

¹[(3) A refund of duty of excise of the nature specified in sub-rule (2) may, subject to the like conditions, be also allowed in respect of the duty of excise collected on raw coal during the course of its transport to the washery where the duty of excise is again collected on the washed coal sent from the washery to the consuming centres.]

31. Audit of Accounts.—The accounts of the General Welfare Account Fund shall be maintained and audited in the same manner as of any other Fund administered by the Central Government. The housing account of the Fund which shall be maintained by the Board shall be audited by a certified auditor as soon after the close of the financial year as possible. The appointment of the Auditor shall be sanctioned and his remuneration fixed by the Central Government on the recommendation of the Advisory Committee.

²The Central Government has authorised the Coal Mines Labour Welfare Commissioner for the purposes of sub-rule (2) of Rule 30, *see* Notification No. S. R. O. 1028, d/- 29-5-52, pub. in Gazette of India, d/- 7-6-52, Pt. II—Sec. 3, p. 932.

¹Inserted by Notification No. S. R. O. 894, d/- 13-5-52, (*vide* Gazette of India, d/- 17-5-52, Pt. II—Sec. 3, p. 815).

²Inserted by Notification No. S. R. O. 59, d/- 31-12-52, (*vide* Gazette of India, d/- 10-1-53, Pt. II—Sec. 3, pp. 45-46).

*[CHAPTER IIIA,

DISPENSARY SERVICES

31A. Standard of dispensary services.—²⁸[(1)] The standard of dispensary services to be provided by owners of collieries for the purposes of sub-section (2) of section 5 of the Act shall be as specified in the Schedule hereto annexed, hereinafter called the "prescribed standard"

Provided that in the case of any dispensary which is in existence on.....November, 1950, the Coal Mines Welfare Commissioner may if he is satisfied that the dispensary is being efficiently run and serves the purposes for which it is established, waive any of the requirements specified in the prescribed standard. Provided further that no such dispensary shall contain any room "[other than a store room] which is less than 12ft. x10ft. in area.

²⁹[Provided further that the functions of a medical graduate may be performed by a medical licentiate who has fifteen years experience as a medical officer in independent charge of a colliery dispensary.]

³⁰[(2) The owner of each colliery shall maintain an independent dispensary at each colliery according to the standard specified in the Schedule referred to in sub-rule (1) :

Provided that where several collieries are owned by one owner the owner may maintain a common main dispensary for all such collieries with branch dispensaries attached to each colliery subject to the following conditions, namely

(i) the common main dispensary shall maintain the standards prescribed for the aggregate number of workers of all the collieries served by it or the standard maintained by it during the year 1951, whichever is higher,

(ii) every branch dispensary shall have a qualified doctor and a qualified compounder,

(iii) the common main dispensary shall be so situated that none of the collieries served by it is more than ten miles distant from it, and

(iv) the common main dispensary shall maintain an ambulance van for taking serious cases of injury and sickness from the branch dispensaries to the common dispensary.]

²⁸Chapter III-A with Rules 31A, 31B and 31C inserted by Notification No. S. R. O. 1027, d/- 1-12-50, pub. in Gazette of India, d/- 9-12-50, Pt. II—Sec. 3, p. 1052.

²⁹Rule 31A re-numbered as sub-rule (1) of that rule and new sub-rule (2) added by Notification No. S. R. O. 1277, d/- 20-6-53, (vide Gazette of India, d/- 27-6-53, Pt. II—Sec. 3, p. 924).

³⁰Further provision added by Notification No. S. R. O. 1008, d/- 25-5-53, (vide Gazette of India, d/- 30-5-53, Pt. II—Sec. 3, pp. 779-780).

³¹Inserted by Notification No. S. R. O. 1002, d/- 31-12-52, (vide Gazette of India, d/- 10-1-53, Pt. II, Sec. 3, p. 46).

31B. Inspection.—The dispensary services maintained by owners of collieries shall be inspected at intervals not exceeding one year by such medical officer as may be appointed by the Chairman for the purpose. The medical officer shall, if the dispensary conforms to the prescribed standards, issue a certificate in Form C1 which shall be valid for a period of one year from the date of issue.

31C. Submission of Periodic Returns.—Each colliery owner who maintains a dispensary service shall submit to the Coal Mines Welfare Commissioner—

(i) in January and July of each year a statement showing the total amount of coal and coke despatched during the preceding six months from his colliery, and

(ii) in January of each year a certified statement of the expenditure incurred on the dispensary during the preceding 12 months.]

{CHAPTER IV

PROCEDURE FOR RECOVERY OF EXCISE DUTY ON COAL AND COKE DESPATCHED OTHERWISE THAN BY RAIL.

32. Maintenance of Register of despatches and submission of returns.—(1) Every owner of a colliery shall maintain in Form D a Register of Despatches of all coal and coke despatched otherwise than by rail and shall record therein each despatch made during a month, separately and consecutively. At the close of each month, the entries made against each permit and the date in the Register shall be totalled and the total tonnage despatched during the month shall be entered in the Register. The amount of duty of excise payable on the total tonnage despatched at the prescribed rate shall be worked out and recorded in the Register itself.

Explanation.—In calculating the total tonnage, a fraction of less than half shall be ignored; and a fraction of more than half shall be reckoned as one ton.

(2) Every owner of a colliery shall submit to the Commissioner in duplicate a return in Form 'D' for each month in accordance with the entries made in the register maintained under sub-rule (1) duly signed by such owner or any person authorised by him in this behalf.

(3) A return so submitted shall reach the Commissioner not later than the last day of the following month.

(4) Where no coal or coke is despatched in any month, the owner of the colliery shall submit to the Commissioner within the time specified in sub-rule (3) a blank return in duplicate, for that month, accompanied by a certificate duly signed by such owner to the effect that no coal or coke was despatched during that month.

¹Inserted by Notification No. L. W.—1 (4) 47 (1), d/- 27-2-50. (vide Gazette of India, d/- 11-3-50, Pt. I-Sec. 1).

[15] Notwithstanding anything contained in this rule, if the Commissioner is satisfied with respect to the owner of any colliery that no coal or coke was despatched by him otherwise than by rail during the preceding twelve months he may by a permit in writing allow him to submit, in place of a monthly Return, a consolidated Return in Form D for such period not exceeding one year as may be specified in the permit. A consolidated Return so submitted shall reach the Commissioner not later than the last day of the month immediately following the period specified in the permit.]

33. Provisional assessment and payment of excise duty.—The amount of duty of excise payable for any month and recorded in the register maintained under rule 32 shall be deemed to be a provisional assessment of the duty and shall be subject to a final assessment under rule 37.

34. Manner of payment of duty.—(1) The owner of a colliery shall pay the duty of excise assessed under rule 32 into the nearest treasury, not later than the last day of the following month.

(2) The payment into the treasury shall be made by means of a challan, the remittance being shown as creditable to the Central Government.

(3) The challan shall be filed in triplicate, a copy of which shall be retained by the Treasury and the remaining two copies shall be returned to the depositor who will keep one for himself and transmit the other copy to the Commissioner as proof of payment along with the monthly return prescribed in sub-rule (2) of rule 32 after entering the number, date and amount shown in the treasury Receipt in both the copies of the return.

(4) An amount equivalent to the amount of excise duty credited to the Central Revenues under sub-rule (2) shall be transferred to the Coal Mines Labour Housing and General Welfare Fund.

35. Delay in submission of Returns.—If the return for any month does not reach the Commissioner within the time prescribed by rule 32, the owner of the colliery shall be punishable with fine which may extend to two hundred rupees.

36. Late returns and revision of returns.—If the owner of any colliery has not furnished the return within the prescribed date or having furnished it, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the order of final assessment is passed.

37. Final assessment of excise duty.—(1) If the Commissioner is satisfied that the return submitted by any owner is correct and complete, he shall confirm the provisional assessment referred to in rule 33 as

* Inserted by Notification No. S. R. O., 1338, d/- 25-7-52, (vide Gazette of India, d/- 2-8-52, Pt. II-Sec. 3, p. 1170).

final and send an intimation to that effect to the owner of the colliery concerned in Form E within three months from the date of receipt of the return.

(2) (a) If the Commissioner is not so satisfied, he may either depute an officer for the purpose of verification of the correctness and completeness of the return with reference to the books and accounts and other relevant records of the colliery at its premises or issue a notice in Form F-1 on the owner of the colliery concerned requiring him to attend either personally or through a duly authorised representative on the date and at the time and place to be specified in the notice. The officer deputed by the Commissioner shall be afforded all necessary facilities at the premises of the colliery for the purpose of verification as aforesaid.

(b) After verification of the return or after hearing such evidence as the owner may produce in compliance with the notice issued under clause (a) and such evidence as the Commissioner may require on specified points the Commissioner shall as soon as possible assess the amount of duty due from the owner and such assessment shall be final.

(c) If the Commissioner is satisfied that the return submitted by the owner is correct and complete, he shall confirm the provisional assessment as final. If, on the other hand, under the final assessment a further sum is due from the owner, the Commissioner shall issue on the owner a Demand Notice in Form H-1 requiring the payment of the balance due within the time specified therein.

(d) If any owner having furnished a return for a month fails to comply with any of the terms of the notice that may be issued on him under clause (a) the Commissioner shall assess the amount of the duty due from him which in his judgment, is just and proper and such assessment shall be final.

(3) If any owner does not furnish a return in Form D for any month by the prescribed date in the manner laid down in rules 32 and 34, the Commissioner shall, after giving the owner a reasonable opportunity of being heard by the issue of a notice in Form F-2 assess the amount of duty due from him which in his opinion is just and proper. The owner shall further be punishable with fine which may extend to two hundred rupees as provided in rule 35.

(4) If upon information which has come into his possession the Commissioner is satisfied that an owner has actually despatched during a month coal or coke otherwise than by rail and has thereby become liable to pay duty under section 3 of the Act but has failed to furnish a return in respect of that month and to pay the amount of provisional assessment on that basis by the last day of the following month, the Commissioner shall after giving the owner a reasonable opportunity of explaining the reasons for the failure by the issue of a notice in Form F-3 assess the amount of duty due from him which in his opinion, is just and proper in respect of that month.

(5) The Commissioner shall fix a date ordinarily not earlier than 30 days from the date of issue of notice in Form F-1 or F-3 for producing such accounts and documents as he may require and for considering any objection which the owner may wish to offer.

(6) After considering any objection made by the owner and any evidence produced in support thereof, the Commissioner shall assess the amount of the duty to be paid by the owner and shall briefly record his findings and pass his final assessment order in Form G.

(7) The amount of duty thus assessed, the date by which the amount so assessed is to be deposited (which shall not ordinarily be earlier than 30 days from the date of issue of Demand Notice) and any other particulars connected therewith shall be specified in the Demand Notice in Form H-1.

(8) The mode of payment into the Treasury of the amount specified in Demand Notice in Form H-1 shall be the same as laid down in rule 34 provided that the copy of the Treasury Challan intended for transmission to the Commissioner shall be forwarded to him with a covering letter quoting reference to the Demand Notice.

*[37A. *Despatches of coal or coke which have escaped assessment.*—If—

(a) the Commissioner has reason to believe that by reason of the concealment by the owner of the particulars of despatches of coal or coke from any colliery, such despatches have escaped excise duty; or

(b) notwithstanding there has been no such concealment of the particulars as is mentioned in clause (a) on the part of the owner, the Commissioner has, in consequence of information in his possession, reason to believe that any despatches of coal or coke from a colliery have escaped excise duty;

the Commissioner may, in cases falling under clause (a) at any time within four years, and in cases falling under clause (b) at any time within two years of the end of the month the return in respect of which should have included such despatches of coal or coke which have escaped assessment, assess the excise duty payable thereon and all the provisions of these rules shall apply to the excise duty so assessed as if such assessment were included in the final assessment of excise duty under rule 37:

Provided that the Commissioner before exercising the powers conferred upon him under this rule shall give the owner a reasonable opportunity of being heard.]

38. *Recovery of unpaid Excise Duty and Penalty.*—(1) Any amount of duty, which remains unpaid after the date specified in the Demand Notice shall be recovered as an arrear of land revenues, and shall be credited to the Central Government and subsequently transferred

*Inserted by Notification No S. R. O. 102, d/- 6-1-53, (vide Gazette of India, d/- 10-1-53, Pt. II-Sec. 3, p. 46).

to the Coal Mines Labour Housing and General Welfare Fund in the manner specified in sub-rules (2), (3) and (4) of rule 34.

(2) The Commissioner shall (in order to recover the unpaid amount of cess,) apply to the Collector of the district in which the colliery is situated for the recovery of the amount remaining unpaid.

(3) The Collector shall send a report to the Commissioner by the 10th of each month showing the amount recovered by him during the preceding month.

39. Review.—(1) Within 30 days from the date of issue of a Demand Notice in Form H-1, any owner may submit a petition to the Commissioner asking for a review of such assessment, provided that no such petition shall be entertained unless the Commissioner is satisfied that the amount assessed has been paid by the owner into a treasury as required under rule 37.

(2) Every petition for review shall be accompanied by a memorandum setting forth clearly the principal grounds of objections against the assessment made together with a copy of the Treasury Challan showing that the amount assessed has been paid (to Government) and a certified copy of the assessment order.

(3) The Commissioner shall, after verifying the fact of assessment from the records of his office, satisfy himself as to the correctness of the grounds in the petition and if he finds that a *prima facie* error of judgment has been made shall issue an order either reducing or annulling the assessment.

(4) If on the other hand, the records in his office reveal that assessment has been made correctly, the Commissioner shall after giving the petitioner an opportunity of being heard, issue an order confirming the assessment. The order of the Commissioner shall be final.

(5) The Commissioner shall record his decision in writing.

(6) The petitioner shall be entitled to a copy of the Commissioner's orders on the petition for review free of cost and it shall be furnished to him as soon as possible after the orders are passed.

(7) So much of the duty originally assessed upon and paid by the owner as is found not to be due from him as a result of review under sub-rule (1) shall be refunded to the owner concerned or adjusted in the account of the owner concerned, as the Commissioner may deem fit, on the basis of the orders on the petition for review.

(8) Any refund under sub-rule (7) shall be made in cash by drawing the amount from the Treasury on an ordinary contingent bill on which shall be specified the review case, number, date of review order and the number, date and amount of the Treasury Challan concerned.

40. Records of collection.—(1) For the proper accounting of the duty collected under these rules, the Commissioner shall maintain

records to show the following particulars along with any other particulars required.

- (a) Assessment and collection of duty.
- (b) Particulars of petitions and orders thereon.
- (c) Refunds.

(2) All papers relating to the assessment of duty in respect of a colliery shall be kept together and shall form an assessment case record.]

[CHAPTER V.]¹

MISCELLANEOUS.

¹[41.] *Statistics and other information.*—(1) The owner of a coal mine shall furnish such statistics or other information as the Central Government or any other person authorised by the Central Government in writing in this behalf may by written order require for the purposes of the Act in such form and manner and within such time as may be specified in the order.

(2) Any owner of a coal mine, who without reasonable excuse fails to furnish the statistics or other information required by the Central Government under sub-rule (1), or furnishes statistics or other information containing a statement, entry or detail which is not to the best of his knowledge or belief true, shall be punished with fine which may extend to ²[two hundred rupees].

²[42.] *Employees of the Fund not public servants.*—Persons paid from the Fund shall not be deemed to be Government servants, notwithstanding that the Central Government may direct that service rules applicable to Government servants generally may apply, with or without modification, to such persons.

¹ Chapter IV, and rules 32 and 33 renumbered as Chapter V, and rules 41 and 42, respectively, by Notification No. L. W.—I.(4) 47 (1), d/- 27-2-59. (*vide* Gazette of India, d/- 11-3-59, Pt. 1—Sec. 1).

² Subst. for "five hundred rupees" by *ibid.* (*vide ibid.*).

[FORM A.]

Statement of estimated receipts into and expenditure from the housing account of the Fund for the financial year

Serial No.	Receipts	Actuals for the preceding financial year.			Expenditure	Actuals for the preceding financial year.		
		Revised Estimates for the current financial year.	Revised Estimates for the current financial year.	Estimates for		Revised Estimates for the current financial year.	Revised Estimates for the current financial year.	Estimates for
		Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
1	Cess collections (amount apportioned for the housing account of the Fund at the rate of—)	—	—	—	1. Administrative charges (share of expenditure to be charged to the housing account of the Fund).	—	—	—
2	Loan sanctioned by Central Government.	—	—	—	2. Expenditure on house building scheme:— (a) cost of preparing schemes. (b) cost of acquisition of land. (c) cost of construction. (d) maintenance and repair charges. (e) tools and plants.	—	—	—
3	Rents realised from housing accommodation.	—	—	—	3. Sinking fund subscription.	—	—	—
4	Interest on investments.	—	—	—	4. Grants to State Governments, local authorities or owners of coal mines in aid of approved scheme.	—	—	—
5	Miscellaneous receipts.	—	—	—	—	—	—	—
	Total				Total			

¹ Subst. for former Form A by Notification No. S. R. O. 59 d/- 4-1-51; vide Gazette of India, d/- 13-1-51, Pt. II—Sec. 3, pp. 44-45.

FORM B.

Annual Statement of accounts of the Housing Fund for the year _____

Receipts	Actuals for the year	Expenditure	Actuals for the year
<i>Opening balance</i>	Rs.		Rs.
1. Cess collections (amount apportioned for the housing account of the Fund at the rate of).	—	Administrative charges (share of expenditure to be charged to the housing account of the Fund) Expenditure on house build- ing scheme.	—
2. Loan sanctioned by Central Government.	—	(a) cost of preparing scheme.	—
3. Rent realised from housing accommoda- tions.	—	(b) cost of acquisition* of land.	—
4. Interest on invest- ments.	—	(c) cost of construction.	—
5. Miscellaneous receipts.	—	(d) maintenance and repair charges.	—
		Sinking fund subscriptions.	—
		Grants to State Governments, local authorities or owners of coal mines in aid of approved schemes.	—
		Closing Balance.	—

FORM C.

Statement of investments made under section 5, of the Act.

No. and date of the Central Government's letter sanction- ing the investment.	Nature of investment, i.e., Govern- ment paper.	Book value, i.e., cost in- cluding brokerage and other charges.	Face value.	Market value.
Total —				

[FORM C1

(See rule 31B)

INSPECTION REPORT ON DISPENSARY

Inspection report of the Dispensary
 at by the for the
 year ending 19

1. Name of Colliery/Collieries served by the Dispensary.
2. Number of workers for which it caters
3. Date and hour of inspection
4. Date of last inspection
5. Dispensary Buildings—
 - (a) Condition of Dispensary Building.
 - (b) Does the accommodation provided conform to the prescribed standard?
6. Medicines—
 - (a) Is the supply sufficient and according to the prescribed scale?
 - (b) Are the poisons labelled and kept separately under lock and key?
7. Surgical Instruments and equipment.
Are they sufficient and in good order?
8. Staff Acquittance Rolls—Are they in order and up-to-date?
9. Registers and Returns. Are these properly kept and regularly submitted?
10. Establishment—
 - (a) Officer-in-charge—
 - (i) Part-time/whole-time
 - (ii) Name and qualifications
 - (b) Designation and pay of staff—
 - (i) Medical Graduate
 - (ii) Medical Licentiate
 - (iii) Lady Doctor
 - (iv) Nurse
 - (v) Compounder
 - (vi) Midwife
 - (vii) Male Dresser
 - (viii) Female Dresser
 - (ix) Sweeper
 - (x) Chowkidar
 - (xi) Peon

Form C1 (*contd.*).—

(c) Attendance Register—Do the staff attend regularly?

11. Annual expenditure on—

- | | |
|-------------------|------|
| (a) Establishment | .... |
| (b) Medicines | .... |

12. Out-patients—

- (a) Number seen at the time of visit.
- (b) Total number of new patients treated in current year up-to-date.
- (c) Total number of old patients treated in current year up-to-date.
- (d) Total treated during the last year.
- (e) Do the entries on tickets of patients present tally with the entries on the register?
- (f) Are there any arrangements for treating females apart from males?

13. Are you satisfied with the working of the dispensary? If not, what suggestions can you make for its improvement?

I certify that I have inspected the dispensary noted above and that it conforms to the standards laid down in the Coal Mines Labour Welfare Fund Rules, 1949.
 does not conform in the following* respects

Signature of Inspecting Officer.

Date

Signature of Coal Mines Welfare Commissioner.

*Give details below.]

FORM D (See rule 32).

Return of actual despatches and duty assessed and paid on a provisional basis.

Name of Owner of Colliery _____ Month of despatch _____ year 1935
Full address _____

Serial	No. & date of permit	Designation of authority who issued the permit	Name of consignee	Destination	Date of despatch	Quantity despatched (separately against each permit and each date)			Calculation of duty	Particular of deposits into treasury
						Coal	Soft Coke	Hard Coke		
1	2	3	4	5	6			7	8	9
									Coal Mines Labour Welfare Fund assc on _____ tons _____ at _____ Rs. _____	Paid into Treasury (name) Treasury on (date with month and year) as per copy of Treasury Challan No. _____ enclosed herewith.
					Total					

Certified that the above statements are true to the best of my knowledge and belief and are based on the records maintained in my colliery.

No., date and place.

Signature.

Proprietor/Partner/Director/Agent/Manager.]

¹ Forms D, E, F-1, F-2, F-3, G, H-1 inserted by Notification No. L W-3, (4) 47 (C), d/- 27-2-30, pub. in Gazette of India, d/- 11-3-30, Pt. I—Sec. 1, p. 321.

*[THE SCHEDULE

Standard of dispensary services to be provided by owners of collieries for the purpose of sub-section 2 of section 5 of the Act.

(Rule 31A)

1 Building

Dispensary catering for 1,000 workers or less—

Three rooms each being 14'X12' to be used as follows:—

(i) Consulting room.

(ii) Dressing room.

(iii) Dispensary and Store room.

Covered waiting accommodation—144 sq. ft.

Two latrines—(Flush type) each 5'X8'.

Dispensary catering for 1,001 to 2,000 workers—

Four rooms each being 14'X12' to be used as follows:—

(i) Consulting room.

(ii) Minor Operation room.

(iii) Store room.

(iv) Dispensary room.

Covered waiting accommodation—288 sq. ft.

Two latrines—(Flush type) each 5'X8'.

Dispensary catering for over 2,000 workers—

Five rooms each being 14'X12' to be used as follows:—

(i) Consulting room.

(ii) Minor Operation room.

(iii) Dispensary room.

(iv) Store room.

(v) Laboratory and office room.

Covered waiting accommodation—432 sq. ft.

Two latrines—(Flush type) each 5'X8'.

Each dispensary should provide emergency beds for treatment of simple and emergency cases at the rate of one bed for every 250 workers subject to a minimum of two beds, one for males and one for females. For this purpose separate rooms shall be provided for males and females and each room shall be 14'X12' and shall have air space of 1,200 c. ft. and door and window space of not less than 1/3 of the floor space with verandah 7 ft. wide along the front of the rooms.

Collieries which have no provision of such emergency beds at their dispensaries will be allowed time up to three years from the date the standards are enforced. Those collieries which fail to provide emergency beds in three years' time shall not be entitled to any subsidy thereafter even if they otherwise be qualified for it.

II Staff

1. For 500 workers or less.—

(a) Below 250 workers—

Medical licentiate	—	—	1	(part-time)
Midwife	—	—	1	do.
Sweeper	—	—	1	do.
Compounder-cum-Dresser	—	—	1	(whole-time)
Peon	—	—	1	do.

*Schedule inserted by Notification No S. R. O. 1027, d/- 1-12-50, pub. in Gazette of India, d/- 9-12-50, Pt. II—Sec. 3, p. 1052.

(b) For 251—500 workers—

*Medical graduate	—	—	1	(part-time)
*Medical licentiate	—	—	1	do.
Midwife	—	—	1	do.
Sweeper	—	—	1	(whole-time)
Compounder-cum-Dresser	—	—	1	do.
Peon	—	—	1	do.

2. For 501—1000 workers—

Medical graduate (male)	—	—	1	(whole-time)
Medical graduate or licentiate (lady doctor)	—	—	1	(part-time)
Midwife	—	—	1	(whole-time)
Sweepers	—	—	2	do.
Compounder-cum-Dresser	—	—	1	do.
Peon	—	—	1	do.

For emergency beds—

Attendants	—	—	2
Cook	—	—	1
Sweeper	—	—	1

3. For 1001—2000 workers—

Medical graduate (male)	—	—	1	(whole-time)
Medical graduate or licentiate (lady doctor)	—	—	1	do.
Compounder	—	—	1	do.
Dressers	—	—	2	do.
Midwife	—	—	1	do.
Sweepers	—	—	2	do.
Peon	—	—	1	do.

For emergency beds—

Attendants	—	—	3
Nurse	—	—	1
Cook	—	—	1
Sweepers	—	—	2

4. For 2001—3000 workers—

Medical Graduate	—	—	1	(whole-time)
Medical Licentiate	—	—	1	
Lady Doctor	—	—	1	
Compounders	—	—	2	
Dressers	—	—	2	
Midwife	—	—	1	
Nurse	—	—	1	
Sweepers	—	—	2	

For emergency beds—

Attendants	—	—	3
Nurses	—	—	2
Cooks	—	—	2
Sweeper	—	—	1

5. 3000 labourers and above—

As in group 4 above, but with two midwives.

*The part-time graduate and licentiate should not be allowed to serve more than 4 and 2 collieries respectively.

III List of Drugs, Surgical equipments, dressings etc. for colliery dispensaries.

Drugs			Below 250 workers	250--1000 workers	above 1000 workers
1			2	3	4
Acid Acetic	—	—	1 oz.	2 oz.	2 oz.
Acid Boric	—	—	2 "	4 "	8 "
Acid Benzoic	—	—	1 "	1 "	2 "
Acid Carbolic	—	—	1 "	1 "	2 "
Acid Sulphuric	—	—	2 "	2 "	4 "
Acid Salicylic	—	—	1 "	1 "	2 "
Aqua Distillata	—	—	2 bottles	2 bottles	4 bottles
Ammon Carb	—	—	2 oz.	2 oz.	4 oz.
Aspirin	—	—	2 dr.	2 dr.	1 "
Acriflavin or other anti-septic dye	—	—	2 "	2 "	1 "
Benedict's solution	—	—	1 oz.	1 oz.	2 "
Calcium lactate	—	—	—	—	4 "
Cocaine	—	—	$\frac{1}{2}$ dr.	$\frac{1}{2}$ dr.	$\frac{1}{2}$ dr.
Copper sulphate	—	—	—	—	1 "
Calamina Preparata	—	—	2 oz.	2 oz.	4 oz.
Cod Liver Oil	—	—	4 "	4 "	8 "
Ephedrine Hydrochlor ($\frac{1}{4}$ gr. tab.)	—	—	25	25	50
Ether	—	—	—	—	1 lb.
Ext. Ergot Liq.	—	—	2 oz.	2 oz.	4 oz.
Ext. Glycyrr. Liq.	—	—	4 "	4 "	8 "
Ferri Sulph.	—	—	$\frac{1}{2}$ "	1 "	1 "
Ferri sulphimon citras	—	—	2 "	4 "	8 "
Glucose	—	—	4 "	4 "	1 lb.
Glycerine	—	—	4 "	4 "	8 "
Gum acacia	—	—	2 "	2 "	4 "
Hydrarg ammoniata	—	—	$\frac{1}{2}$ "	1 "	2 "
Hydrarg oxide flava	—	—	1 dr.	1 dr.	2 dr.
Ethylol	—	—	—	—	2 oz.
Kaoline	—	—	1 oz.	2 oz.	4 "
Lint saponis	—	—	4 "	8 "	1 lb.
Liq. Morph Hydrochlor	—	—	—	1 "	2 oz.
Liq. Ammon acetate	—	—	4 oz.	4 "	1 lb.
Liq. Plumbi subacetat fort	—	—	4 oz.	8 "	8 oz.
Lysol	—	—	$\frac{1}{2}$ lb.	$\frac{1}{2}$ lb.	$\frac{1}{2}$ lb.
Mag. Oxide powder or Mag. Trisilicate	}	}	1 oz.	2 oz.	2 oz.
Mag. Sulph.			8 "	1 lb.	1 lb.
Menthol	—	—	—	—	$\frac{1}{2}$ dr.
Multi vitamin tab	—	—	50	100	100
Oil Ricini	—	—	8 oz.	1 lb.	1 lb.
Oil menth pip	—	—	—	1 oz.	2 oz.
Oil Olive	—	—	4 "	8 "	1 lb.
Paludrine tabs	—	—	100	200	200
Pheno barbitone	—	—	1 dr.	1 dr.	2 dr.
Pot. Bromide	—	—	2 oz.	4 oz.	4 oz.
Pot. Citrate	—	—	2 "	4 "	4 "
Pot. Iodide	—	—	$\frac{1}{2}$ "	1 "	2 "
Pot. Permanganate	—	—	4 "	8 "	8 "
Protargol	—	—	1 dr.	2 dr.	2 dr.
Pulv. Atropin sulph.	—	—	$\frac{1}{2}$ "	$\frac{1}{2}$ "	$\frac{1}{2}$ "

		1	2	3	4
Pulv. Ipecac Co.	—	—	2 dr.	4 dr.	1 oz.
Pulv. Quinine Sulph.	—	—	1 oz.	2 oz.	2 oz.
Santonin	—	—	$\frac{1}{2}$ dr.	$\frac{1}{2}$ dr.	$\frac{1}{2}$ dr.
Sodi Bicarb	—	—	$\frac{1}{2}$ lb.	1 lb.	1 lb.
Sodi Salicylate	—	—	2 oz.	4 oz.	4 oz.
Spt. Ammon Aromat	—	—	2 "	4 "	4 "
Sodi Chloride	—	—	4 "	8 "	8 "
Spt. Methyl	—	—	8 "	8 "	1 lb.
Spt. Rect.	—	—	4 "	4 "	8 oz.
Sulphanilamide or Sulphadiazine	—	—	100 tabs.	200 tabs.	200 tabs.
Sulphaguanidine	—	—	200 "	300 "	400 "
Sulphanilamide powder	—	—	2 oz.	4 oz.	4 oz.
Tab. Digoxin or Pill					
Digitalis Co. B.P.C.	—	—	20	20	20
Tab. Laxative Co. B.P.C.	—	—	25	50	50
Tetrachlorethylene	—	—	$\frac{1}{2}$ oz.	1 oz.	1 oz.
Tinct. Belladonna	—	—	2 "	2 "	4 "
Tinct. Benzoin Co.	—	—	2 oz.	4 oz.	4 oz.
Tinct. Camphor Co.	—	—	2 "	4 "	4 "
Tinct. Card Co.	—	—	2 "	4 "	4 "
Tinct. Chloroformet morph.	—	—	2 "	2 "	4 "
Tinct. Hyoscyamus	—	—	2 "	2 "	4 "
Tinct. iodine	—	—	2 "	4 "	8 "
Ung. Sulphuris B.P.C.	—	—	4 "	4 "	8 "
Vaseline	—	—	4 "	8 "	8 "
Vin Ipecac or tinct or liq.	—	—	2 "	4 "	4 "
Vitamin C	—	—	20	40	40
Zinc Oxide	—	—	2 oz.	4 oz.	4 oz.
Adrenalin Hydrochloride					
Liquor (1:1000)	—	—	1 "	1 "	1 "
Coramine or Nikethemide	—	—	5 amp.	5 amp.	5 amp.
Emetine Hydrochlor (amp. or tab.)	—	—			
Gr. 1	—	—	20	40	60
Gr. $\frac{1}{2}$	—	—	20	40	60
Injectio Quinine Gt. 10	—	—	10 amp.	10 amp.	10 amp.
Percaine Hydrochlor or Novocain 2% amp.	—	—		6	6
Serum Anti-venom	—	—	2 amp.	2 amp.	2 amp.
Serum Tetanus antitoxin 1500 units	—	—	6 "	6 "	12 "
Soluseptasine or other injectable sulphamide	—	—	3 "	6	6
Tab. Atropine (1/100 gr.)	—	—	1 tube	1 tube	1 tube
Tab. Morphine ($\frac{1}{4}$ gr.)	—	—	1 "	1 "	1 "
<i>Dressings</i>					
Bandage roller 6"	—	—	6	6	12
Bandage roller 4"	—	—	6	6	12
Bandage roller 3"	—	—	6	6	12
Bandages Triangular	—	—	6	6	6
Cotton Wool	—	—	1 lb.	1 lb.	1 lb.
Gauze 1 yd. each	—	—	6	12	12
Lint	—	—	4 oz.	4 oz.	8 oz.
Plaster of paris bandages 4"	—	—		6	6

1	2	3	4
Plaster of paris bandages 3"	—	6	6
Strapping adhesive 12 roller	— 1	1	1
Strapping adhesive 2 roller	— 1	1	1
Strapping adhesive 3 roller	— 1	1	1
<i>Medical and Surgical equipment.</i>			
Basin	— 1	2	2
Bowls E. I. 4"	— 1	1	2
Bowls E. I. 8"	— 1	1	2
Catheters rubber (size 8 and 10)	— 2	2	2
Cup feeding	— 1	1	1
Douche can with fittings	— 1	1	1
Drums dressing	— 1	1	1
Examination lamp	— 1	1	1
Forceps artery	— 2	2	2
Forceps chestle	— 1	1	1
Forceps Disecting plain	— 1	1	1
Forceps Disecting toothed	— 1	1	1
Hammer percussion	— 1	1	1
Jug measure	— 1	1	1
Lauect vaccination	— 1	1	1
Mirror forehead	— 1	1	1
Needle aneurysm	— 1	1	1
Needles suture assorted	— 6	6	12
Probe	— 1	2	2
Razor safety	— 1	1	1
Roger's cholera apparatus or apparatus intravenous	— 1	1	1
Stethoscope	— 1	1	1
Syringes 2 c.c.	— 1	1	1
Syringes 10 c.c.	— 1	1	1
Syringes 20 c.c. or above	— 1	1	1
Sphygmomanometer	— 1	1	1
Speculum Nasal	— 1	1	1
Speculum Aural	— 1 set	1 set	1 set
Stove Primus	— 1	1	1
Scapels	— 1	2	2
Skinner's mask	— 1	1	1
Stretcher	— 1	1	1
Syringe ear	— 1	1	1
Spud, eye	— 1	1	1
Splint leg Thomas (medium)	— 1	1	1
Splinting wire crammer	— 1	1	1
Scissors straight both ends sharp	— 1	1	1
Scissors straight Mayo	— 1	1	1
Sterilizer instrument portable	— 1	1	1
Thermometers	— 1	1	1
Tongue depressor	— 1	1	1
Tape measure	— 1	1	1
Test type chart	— 1	1	1
Tray dressing	— 1	2	2
Tray kidney	— 1	2	2
Tourniquet	— 1	1	1
Udline	— 1	1	1

1	2	3	4
Weighing machine — — —	1	1	1
Water Proof Sheets of 2 yds. — —	1	1	1
<i>Other Dispensary equipment.</i>			
Blankets — — —	2	2	2
Bin for soiled clothes — — —	1	1	1
Bottles drop with grooved stoppers — — —	1	2	2
Cork screw — — —	1	1	1
Corks assorted — — —	25	50	50
Dropper eye — — —	2	2	2
Funnel 4 oz. glass or E. I. — — —	1	1	1
Filter paper — — —	1 pkt.	1 pkt.	1 pkt.
Gloves — — —	1 pair	1 pair	1 pair
Litmus paper blue — — —	1 pkt.	1 pkt.	1 pkt.
Litmus paper red — — —	1 pkt.	1 pkt.	1 pkt.
Measure glass 8 oz. — — —	1	1	1
Measure glass 2 oz. — — —	1	1	1
Minim glass — — —	1	1	1
Pestle & Mortar — — —	1	1	1
Pin safety — — —	6	6	6
Pot delf with cover — — —	2	2	2
Spatula — — —	1	1	1
Slab ointment — — —	1	1	1
Soap — — —	1 cake	1 cake	1 cake
Spirit lamp — — —	1	1	1
Scales and weights — — —	1	1	1
Slides — — —	1 doz.	1 doz.	1 doz.
Scissors sharp — — —	1	1	1
Towels ordinary — — —	2	2	2
Tin opener — — —	1	1	1
Test tubes — — —	4	6	6
Test tubes stand — — —	1	1	1
Test tube holder — — —	1	1	1
Urine glass specimen — — —	1	2	2
<i>Furniture.</i>			
Almirah — — —	1	1	1
Benches — — —	1	1	1
Chairs — — —	2	2	2
Cup-board poison — — —	1	1	1
Examination couch — — —	1	1	1
Stools — — —	2	2	2
Screen — — —	1	1	1
Table Medical officer — — —	1	1	1
Table dispensing — — —	1	1	1
Table dressing — — —	1	1	1

*[FORM E

[See rule 37 (1)]

(Confirmation of Provisional Assessment).

To

..... Colliery.

.....
..... Address.

With reference to the Return in Form D of the Coal Mines Labour Welfare Fund Rules, 1949, submitted by you in respect of the month of 195 , you are hereby informed that the provisional assessment of cess on tons amounting to Rs. (Rupees) only paid by you as per Treasury Challan No. dated has been confirmed.

Seal of the Commissioner.

Commissioner.]

No.

Date

Place

*[FORM F-1

Notice.

[See rule 37 (2) (a)]

To

..... Colliery.

.....
..... Address.

Whereas I desire to satisfy myself that the return in Form D filed by you for the month of 195 is correct and complete.

You are hereby directed to appear in person or through a duly authorised representative before

on at and to produce or
date time

cause to be produced at that time the accounts and documents specified below, together with any objection which you may wish to do in support thereof.

*See f. n. 5 at p. 62.

In the event of your failure to comply with this notice, I shall proceed to assess the duty to the best of my judgment under rule 37 of the Coal Mines Labour Welfare Fund Rules, 1949 without further reference to you.

Commissioner,

Seal of the Commissioner

No.

Date

Place

Particulars of accounts and documents required.

1. Books of accounts for the month(s) in question in general and records of despatches together with records of bills in particular.

2. Complete record of road/river permits issued by the Coal Commissioner/Regional Coal Controller during the period in question in respect of this colliery.

3. Any other subsidiary record showing despatches by road/river made during the month (s).]

*[FORM F-2

Notice.

[See rule 37 (3)]

To

..... (Colliery)

.....
..... (Address)

Whereas you have not furnished a return in Form D in respect of the month(s) of 195 , by the prescribed date(s).

You are therefore required to submit a return within one Calendar month from the date of issue of this notice for the month(s) of19 in Form D of the Coal Mines Labour Welfare Fund Rules, 1949.

In the event of your failure to comply with this notice I shall proceed to assess the duty to the best of my judgment under rule 37 of the Coal Mines Labour Welfare Fund Rules, 1949 and you will also further be liable to a prosecution under rule 35.

Commissioner]

Seal of the Commissioner

No.

Date

Place

*See F. N. 5 at p. 62.

*[FORM F-3]

Notice.

[See rule 37 (g)]

To

(Colliery)

(Address)

Whereas it appears that you have despatched coal/coke by road/river during the month(s) of 195 , but have failed to furnish return in Form D under rule 32 of the Coal Mines Labour Welfare Fund Rules, 1949.

You are therefore directed to appear in person or through a duly authorised representative before

person

at on

place

date

at and to produce or cause to be produced at time

that time the accounts and documents specified below, lodge at that time any objection which you may wish to prefer and produce any evidence which you may wish to do in support thereof, and you will further be liable to a prosecution under rule 35.

In the event of your failure to comply with this notice I shall proceed to assess the cess to the best of my judgment under rule 37 of the Coal Mines Labour Welfare Fund Rules, 1949.

Commissioner.

Seal of the Commissioner.

No.

Place.

Particulars of accounts and documents required.

1. Books of accounts for the month(s) in question in general and records of despatches together with records of bills in particular.
2. Complete record of road/river permits issued by the Coal Commissioner/Regional Coal Controller during the period in question in respect of this colliery.
3. Any other subsidiary record showing despatches by road/river made during the month(s).]

*See L. n. 5 at p. 62.

*[FORM G

Order of assessment.

[See rule 37(6)].

State in which the colliery
is situated.

Assessment Case No.

of 195 .

1. Year of assessment month for which
assessment is made

2. Name of colliery assessed

3. Location of the colliery

4. Full postal address

5. Account books, etc. produced, if any

6. Rule and sub-rule under which assessment is made

7. Total tons of coal/coke despatched by road/river as per return
furnished by the colliery8. Total tons of coal/coke despatched by road/river as determined
on the basis of the books of account produced or to the best judgment
of the Commissioner9. Amount of cess assessed at the rate of
per ton of coal and coke despatched by road/river on the basis of
item 8 above Rs. as

Assessment order in brief.

Commissioner.

Seal of the Commissioner.

No.

Date

Place

Certified copies of the assessment order may be obtained from the Commissioner's Office on payment to him of a fee of Rs. 2/- for each copy. The amount paid on this account shall be credited by the Commissioner to the Central Head "P-Deposits and Advances-Part II. Deposits not bearing interest-(B) Reserve Funds (Central)—Coal Mines Labour Housing and General Welfare Fund—General Welfare allotment—Miscellaneous Receipts".]

*See f. n. 5 at p. 62.

*[FORM H-1]

(See rule 37).

Demand Notice.

To (Proprietor/Partner/Director/Manager/Agent)
 of (Colliery) at location of colliery
 P. O. District in the
 State of

In continuation of the notice in Form F-1/F-2/F-3 issued to you
 per registered post on the day of 195
 you are hereby informed that your total despatches of *coal/coke by
 *road/river during the month(s) of 195 has been
 finally determined at tons and accordingly cess amounting to
 Rs. (Rupees) only is payable
 in words
 by you.

2. You are hereby directed to pay the sum of Rs.
 (Rupees) only as detailed below into the nearest
 in words
 Government Treasury on or before the day of
 195 and to produce before the Commissioner a copy of the relevant
 Treasury Challan as proof of payment not later than the
 day of 195 failing which the said sum of Rs.
 (Rupees) only will be recoverable from you
 in words
 as an arrear of land revenue.

Details of assessed amount
 1. Amount of cess payable Rs.
 2. Deduct amount already paid by you as per Treasury Challan
 No. dated
 Net amount payable Rs.
 Commissioner,

Seal of the Commissioner.

No.
 Date.
 Place.

*Strike out the number of form and words and phrases not
 applicable.]

**THE COAL MINES LABOUR WELFARE OFFICE
ESTABLISHMENT (CONTRIBUTORY PROVIDENT
FUND) RULES, 1951¹**

1. *Short title.*—(1) These rules may be called the Coal Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1951.

(2) They shall be deemed to have come into force with effect from the 1st day of June, 1947.

2. *Definitions.*—In these rules unless there is anything repugnant in the subject or context—

(i) "Accounts Officer" means the Accountant General, Bihar.

(ii) "Commissioner" means the Coal Mines Labour Welfare Commissioner.

(iii) "Emoluments" means pay, leave salary or subsistence grant, as defined in the Fundamental Rules and includes:—

(a) any wages paid from the Welfare Fund to employees not remunerated by fixed monthly pay; and

(b) any remuneration of the nature of pay received in respect of foreign service (i.e. service rendered with any other employer with the permission of the Chairman, Coal Mines Labour Welfare Fund Advisory Committee).

(iv) "Employee" means any person holding an appointment, the emoluments of which are paid from the Welfare Fund.

(v) "Family" means:—

(a) in the case of a male subscriber, the wife or wives and children of the subscriber and the widow or widows of a deceased son of the subscriber;

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community to which the parties belong to be entitled to maintenance she shall thenceforth be deemed to be no longer a member of the subscriber's family in matters to which these rules relate, unless the subscriber subsequently indicates by express notification in writing to the Accounts Officer through the Commissioner that she shall continue to be so regarded; and

(b) in the case of a female subscriber, the husband and children of the subscriber and the widow or widows and children of a deceased son of the subscriber:

Provided that if the subscriber by notification in writing to the Accounts Officer through the Commissioner expresses her desire to exclude her husband from her family, the husband shall thenceforth be

¹See Notification No. S.R.O. 127, d.d. 17.1.51, pub. in Gazette of India, d/- 27.1.51, Pt. II-Sec. 3, pp. 110-117.

deemed to be no longer a member of the subscriber's family in matters to which these rules relate, unless the subscriber subsequently cancels formally in writing her notification excluding him.

NOTE I.—"Children" means legitimate children.

NOTE II.—An adopted child shall be considered to be a child only when the Commissioner or when any doubt arises in the mind of the Commissioner, the Solicitor to the Government of India, is satisfied that under the personal law of the subscriber, adoption is legally recognised as conferring the status of a natural child.

(vi) "Provident Fund" means the Coal Mines Labour Welfare Office Establishment Contributory Provident Fund.

(vii) "Subscriber" means any employee of the Welfare Fund admitted to the Provident Fund.

(viii) "Welfare Fund" means the Coal Mines Labour Welfare Fund constituted under the Coal Mines Labour Welfare Act, 1947.

(ix) "Year" means a financial year.

3. *Constitution and management of the Provident Fund.*—The Provident Fund shall be administered by the Commissioner and shall be maintained by the Accounts Officer in rupees in India.

4. These rules shall apply to every employee holding a permanent and non-pensionable post in a substantive capacity:

Provided that a person appointed on probation to a permanent post or appointed to officiate in a post which is vacant or the permanent incumbent of which does not draw any part of the pay or count service may, if he is confirmed without interruption, be allowed to join the Provident Fund with retrospective effect from the date of his joining the service:

Provided further that an employee in temporary service may also be admitted to the Provident Fund, with the written consent of the Commissioner, with retrospective effect from the date he joined the service, if he has been employed in connection with the Fund for not less than a year and is in the opinion of the Commissioner likely to remain so employed for at least another two years:

Provided further that these employees serving in the Malaria Institute of India in connection with the anti-malaria operations in the coal-fields who were brought under the administrative control of the Commissioner with effect from the 1st March 1951, may also be allowed to join the Provident Fund with retrospective effect from the date they were employed on anti-malaria operations in coal-fields.]

5. *Nomination.*—(r) A subscriber shall, as soon as may be after joining the Provident Fund, send to the Commissioner a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the Provident Fund in the event of his death

*Subs. for former rule 4 by Notification No. S.R.O. 3030, d/- 3-12-52. see Gazette of India, d/- 13-12-52, Pt. II—Sec. 3, p. 1700.

*Subs. for former rule 5 by Notification No. S.R.O. 1503, d/- 10-8-52. see Gazette of India, d/- 30-8-52, Pt. II—Sec. 3, pp. 1368—1369.

before that amount has become payable, or having become payable has not been paid:

Provided that if, at the time of making the nomination, the subscriber has a family, the nomination shall not be in favour of any person or persons other than the members of his family.

(2) If a subscriber nominates more than one person under sub-rule (1), he shall specify on the nomination the amount or share payable to each nominee in such manner as to cover the whole of the amount that may stand to his credit in the Fund at any time.

(3) Every nomination shall be in such one of the Forms set forth in the first schedule as is appropriate in the circumstances.

(4) A subscriber may at any time cancel a nomination by sending a notice in writing to the Accounts Officer through the Commissioner.

Provided that the subscriber shall along with such notice send a fresh nomination made in accordance with the provisions of this rule.

(5) A subscriber may provide in a nomination—

(a) in respect of any specified nominee that in the event of his predeceasing the subscriber, the right conferred upon that nominee shall pass to such other person as may be specified in the nomination;

(b) that the nomination shall become invalid in the event of the happening of a contingency specified therein.

Provided that if at the time of making the nomination the subscriber has no family, he shall provide in the nomination that it shall become invalid in the event of his subsequently acquiring a family.

(6) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause

(a) of sub-rule (5) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of clause (b) of sub-rule (5) or the proviso thereto, the subscriber shall send to the Accounts Officer through the Commissioner a notice in writing cancelling the nominations together with a fresh nomination made in accordance with the provisions of this rule.

(7) Every nomination made, and every notice of cancellation given by a subscriber shall, to the extent that it is valid, take effect on the date on which it is received by the Accounts Officer through the Commissioner.]

6. *Subscriber's account.*—An account shall be prepared in the name of each subscriber and maintained by the Accounts Officer in the form set forth in the Second Schedule appended to these rules.

7. *Conditions and rate of subscription.*—(1) A subscriber shall subscribe monthly to the Provident Fund when on duty or foreign service.

(2) A subscriber may, at his election, not subscribe during leave.

(3) A subscriber shall intimate his election not to subscribe during leave by a written communication to the Accounts Officer through the Commissioner before he proceeds on leave.

(4) Failure to make due and timely intimation shall be deemed to constitute an election to subscribe.

(5) The election of a subscriber intimated under this sub-rule shall be final.

(6) A subscriber shall not subscribe to the Provident Fund when on extraordinary leave without pay or under suspension. He shall, however, on return from a period of such leave without pay or on reinstatement after a period passed under suspension, be allowed the option to subscribe for that period, at the discretion of the Commissioner. The amount of subscription to be paid shall also be determined by the Commissioner the general principle to be observed being that the subscription should be calculated on half the emoluments drawn by the employee before he proceeded on leave without pay or was placed under suspension.

8. (1) The amount of subscription shall be fixed by the subscriber himself subject to the following conditions:—

(a) it shall be expressed in whole rupees;

Provided that if the emoluments of the subscriber do not exceed fifty rupees a month, the amount may be any multiple of a half rupee; and

(b) it may be any sum so expressed at a rate not less than 6½ per cent. (i.e. one anna in the rupee) of his monthly emoluments.

*[Provided that in the case of an employee who under the Rules is allowed to join the Provident Fund with retrospective effect, such monthly subscription shall not be less than ten per cent. of his pay until all arrears of such subscriptions are paid up in full.]

(2) For the purpose of sub-rule (1) the emoluments of a subscriber shall be—

(a) in the case of a subscriber who was on duty on the 31st March of the preceding year, the emoluments to which he was entitled on that date;

(b) in the case of a subscriber admitted to the Provident Fund on a subsequent date, the emoluments to which he was entitled on such subsequent date;

(c) in the case of a subscriber who was on deputation out of India on the said date or was on leave on the said date and continues to be on leave and has elected to subscribe during such leave the emoluments to which he would have been entitled had he been on duty; and

(d) in the case of a subscriber who was on leave on the said date and elected not to subscribe during such leave or was under suspension on the said date the emoluments to which he was entitled on the first day after his return to duty.

(3) The subscriber shall intimate the fixation of the amount of

*Added by Notification No. S.R.O. 1303, d/- 19-8-52, *see* Gazette of India, d/- 30-8-52, Pt. II-Sec. 3, p. 1369.

his monthly subscription for each year on the basis of his emoluments and rate permissible.

(4) The subscriber shall be permitted to increase the amount of subscription once at any time during the course of the year; there shall, however, be no corresponding increase in the Welfare Fund's contribution:

Provided that if a subscriber is on duty for a part of a month and on leave for the remainder of that month and if he has elected not to subscribe during leave the amount of the subscription shall be proportionate to the number of days spent on duty in the month.

9. Realisation of subscription.—(1) When the emoluments are drawn on the establishment pay bills, recovery of subscription to and the principal and interest of advances granted from the Provident Fund shall be made by deduction from the pay bills.

(2) When the emoluments are drawn otherwise, the subscriber shall forward his dues monthly to the Accounts Officer.

10. Contribution to the Welfare Fund.—(1) The Commissioner shall make yearly a contribution to the account of each subscriber from the Welfare Fund:

Provided that if a subscriber quits service or dies during the course of a year, proportionate contribution shall be credited to his account for the period between the close of the preceding year and the date of his retirement or death as the case may be.

(2) The rate of contribution made by the Commissioner shall be 6½ per cent. (1/16th) of the subscriber's emoluments drawn on duty or if he has been on leave and elected to subscribe during such leave the emoluments to which he would have been entitled had he been on duty.

[Provided that in case of employees who are allowed to join the Provident Fund with retrospective effect such contribution shall not be less than ten per cent. of the subscriber's emoluments until all arrears of such contributions are paid up in full.]

(3) The amount of contribution shall be rounded off to the nearest whole rupee (eight annas counting as the next higher rupee).

11. Interest.—(1) The Commissioner shall pay to the credit of the account of a subscriber interest at such rate as the Central Government may from time to time prescribe for the payment of interest on a subscriber's accumulations in the Provident Fund.

(2) In addition to any amount to be paid under rule 17, the interest thereon upto the end of the month preceding that in which payment is made, or upto the end of the sixth month after the month in which such amount became payable, whichever of these periods be less, shall be payable to the persons to whom such amount is to be paid; provided that no interest shall be paid in respect of any period after the date which the Accounts Officer has intimated to that person (or his agent)

²Added by Notification No. S.R.O. 1503, d/- 19-8-52, see Gazette of India, d/- 30-8-52, Pt. II-Sec. 3, p. 1369.

as the date on which he is prepared to make payment in cash, or if he pays by cheque, after the date on which the cheque in that person's favour is put in the post.

12. Advances.—When the pecuniary circumstances of a subscriber are such that indulgence is absolutely necessary, a temporary recoverable advance may, at the discretion of the Commissioner, be granted to a subscriber out of the amount standing to his credit in the Provident Fund, on the conditions that—

(i) the advance is required to pay the expenses on behalf of a subscriber or his family on any of the following:—

(a) prolonged illness or medical attention,

(b) overseas passage for reasons of health or education, and

(c) marriage, funerals or ceremonies which by his religion it is incumbent upon the subscriber to perform.

(ii) the advance is expressed in whole rupees and shall not, except for special reasons, exceed three months' pay of the subscriber and shall in no case exceed the amount of subscriptions and interest thereon standing to his credit in the Provident Fund.

(iii) a written request is made to the Commissioner showing reasons for the request:

Provided that if the reason is of a confidential nature it may be communicated to the Commissioner personally or confidentially.

13. Any advance shall be recovered from the subscriber in such number of equal monthly instalments as the Commissioner may direct but the number shall not be less than 12 unless the subscriber so elects or in any case more than 24, the amount of advance being raised or reduced, if necessary, to admit of the fixation of such instalments. The instalments shall be expressed in whole rupee and recovered from the subscriber's salary in the manner indicated in rule 9. The first instalment shall commence from the first payment of a full month's salary after the grant of advance.

14. After the principal of the advance has been fully repaid, interest thereon shall be recovered in one instalment at the rate of $1/5$ th per cent. of the principal for each month or broken portion of a month during the period between the drawal and complete repayment of the principal:

Provided that when the advance is distributed to be recovered in more than 19 instalments, the interest may be recovered in two instalments.

15. Deductions.—Subject to the conditions that no deduction may be made which reduces the credit by more than the amount of any contribution by the Commissioner with interest thereon credited under rules 10 and 11 before the amount standing to the credit of a subscriber in the Provident Fund is paid out of the Fund, the Commissioner may direct the deductions therefrom and payment to the Welfare Fund of—

(a) any amount, if a subscriber has been dismissed from the service for grave misconduct;

Provided that, if the order of dismissal is subsequently cancelled, the amount so deducted shall, on his reinstatement in the service, be replaced at his credit in the Provident Fund;

(b) any amount if a subscriber resigns his employment under the Welfare Fund within *[five years] of commencement of service thereof otherwise than by reasons of superannuation or a declaration by competent medical authority that he is unfit for further service; and

(c) any amount due under a liability incurred by the subscriber to the Welfare Fund.

16. Final withdrawal of accumulations in the Provident Fund.—

The amount standing to the credit of a subscriber shall become payable at the time of quitting service or the death of the subscriber in the manner provided by these rules.

17. The total accumulations in the account of a subscriber less the amount of unrecovered advance and interest thereon, if any, shall be paid as follows:—

(i) to the subscriber on his ceasing to be an employee;

(ii) in the event of the death of the subscriber having made a nomination in accordance with these rules, to the nominee or nominees and in the event of such nominee or nominees pre-deceasing the subscriber, to the alternate nominee or nominees, in the manner indicated in the declaration form; or

(iii) in the event of the death of the subscriber without having made a nomination in accordance with these rules or whose nominee or nominees or alternate nominee or nominees has/have not survived the subscriber, to the legal heir or heirs of the subscriber on the production by him/them of probate or letters of administration evidencing the grant to him/them of the administration of the estate of the subscriber or a certificate granted under the Indian Succession Act, 1925, entitling the holder thereof to receive payment of such amount.

Provided that if the amount of such accumulations does not exceed rupees five thousand it may be paid to any person appearing to the Commissioner to be entitled to receive it.

*Subs. for "three years" by Notification No. S.R.O. 1503, d/- 19-8-52, see Gazette of India, d/- 30-8-52, Pt. II-Sec. 3, p. 1369.

*[FIRST SCHEDULE

[See rule 5(3)].

Form of Nomination.

I. When the subscriber has a family and wishes to nominate one member thereof.

I hereby nominate the person mentioned below, who is a member of my family as defined in rule 2 of the Coal Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1951, to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable or having become payable, has not been paid:—

Name and address of the nominee	Relationship with subscriber	Age	Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber

Dated this day of 19.....
at

Signature of Subscriber

Two witnesses to signature.

1.....

2.....

II. When the subscriber has a family and wishes to nominate more than one member thereof.

I, hereby nominate the persons mentioned below, who are members of my family as defined in rule 2 of the Coal Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1951, to receive the amount that may stand to my credit in the Fund, in the event of my death before the amount has become payable, or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

*Subs. for former First Schedule by Notification No. S.R.O. 1503, d/- 19-8-52, see Gazette of India, d/- 30-8-52, Pt. II-Sec. 3, pp. 1369-1371.

Name and address of nominee	Relationship with subscriber	Age	*Amount or share of accumulations to be paid to each	Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the person if any to whom the right of the nominee shall pass in the event of his predeceasing the subscriber

Dated this day of 19.....
at

Signature of Subscriber

Two witnesses to signature.

1.....
2.....

*Note.—This column should be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the Fund at any time.

III. When the subscriber has no family and wishes to nominate one person,

I, having no family as defined in rule 2 of the Coal Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1951, hereby nominate the person mentioned below to receive the amount that may stand to my credit in the Fund, in the event of my death before the amount has become payable, or having become payable has not been paid:—

Name and address of the nominee	Relationship with subscriber	Age	*Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber

Dated this day of 19.....
at

Signature of Subscriber

Two witnesses to signature.

1.....
2.....

*Where a subscriber who has no family makes a nomination, he shall specify in the column that the nomination becomes invalid in the event of his subsequently acquiring a family.

IV. When the subscriber has no family and wishes to nominate more than one person,

I having no family as defined in rule 2 of the Coal Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1951, hereby nominate the persons mentioned below to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of nominees	Relationship with subscriber	Age	†Amount or share of accumulation to be paid to each	‡Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the persons if any to whom the right of the nominee shall pass in the event of his predeceasing the subscriber

Dated this day of, 19.....
at

Signature of Subscriber

Two witnesses to signature.

- 1.....
- 2.....

†NOTE.—This column should be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the Fund at any time.

‡NOTE.—Where a subscriber who has no family makes a nomination, he shall specify in this column that the nomination shall become invalid in the event of his subsequently acquiring a family]

SECOND SCHEDULE

Provident Fund Account and Abstract Balance of each subscriber.

Name of subscriber _____
 Account No. _____
 Date of admission to the Provident Fund _____
 Appointment or appointments held under the Welfare Fund _____
 Corresponding date(s) of appointment _____
 Remarks or special provision, if any _____

Pay on 31st March of preceding year Rs. _____ 19-- 19--	Subscription				Contribution by the Welfare Fund	
	Subscription	Refunds of withdrawals	Total	Withdrawals	Monthly balance on which interest is calculated	Subscriber's emoluments drawn on duty or his leave salary, if he elects to subscribe during leave
April _____						
May _____						
June _____						
July _____						
August _____						
September _____						
October _____						
November _____						
December _____						
January _____						
February _____						
March _____						
March (Final) _____						
March (Supplementary) _____						

Total _____

Balance from 19— 19—	Contribution by the
Deposits and Refunds as	Welfare Fund on Rs.
above	@
Interest for 19— 19—	Balance from 19 —19 .
Total	Interest for 19 —19 .
Deduct—Withdrawals as	Total
above	Deduct—Withdrawals
Balance on 31st March	as above
19	Balance on the 31st
Calculated by	March 19
	Calculated by

THE COAL MINES PROVIDENT FUND AND BONUS SCHEMES ACT, 1948.

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THE COAL MINES PROVIDENT FUND AND BONUS SCHEMES ACT, 1948.

ACT No. XLVI of 1948¹

[3rd September, 1948]

An Act to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines.

WHEREAS it is expedient to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines;

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Coal Mines Provident Fund and Bonus Schemes Act, 1948.

²[(2) It extends to the whole of India ³[except the State of Jammu and Kashmir].]

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "bonus" means any sum of money payable to an ⁴[employee] under the Coal Mines Bonus Scheme framed under this Act;

(b) "coal mine" means any excavation where any operation for the purpose of obtaining coal has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a coal mine:

¹For Statement of Objects and Reasons, see Gazette of India, dated August 21, 1948, Part V, p. 604.

²Subs. for former sub-sec. (2) by I.A.O. 1950.

³Subs. for "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin" by the Coal Mines Provident Fund and Bonus Schemes (Am.) Act 80 of 1950.

⁴Subs. for "employee in a coal mine" by *ibid.*

Provided that it shall not include any part of the coal mine on which a manufacturing process is being carried on unless such process is a process for coke-making or the dressing of minerals;

(c) "contribution" means the contribution payable in respect of a member under the Coal Mines Provident Fund Scheme framed under this Act;

(d) "employee" means any person who is employed in any kind of work, manual or otherwise, in or in connection with a coal mine and who gets his wages directly or indirectly from the employer;

(e) "employer" means the owner of a coal mine as defined in clause (g) of section 3 of the Indian Mines Act, 1923 (IV of 1923)*;

(f) "Fund" means the provident fund established under the Coal Mines Provident Fund Scheme; and

(g) "member" means a member of the Fund.

3. Coal Mines Provident Fund Scheme.—(1) The Central Government may, by notification in the official Gazette, frame a scheme to be called the Coal Mines Provident Fund Scheme for the establishment of a provident fund for "[employees]" and specify the coal mines to which the said scheme shall apply.

(2) Any scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the First Schedule.

4. Fund to be recognised under Act XI of 1922.—For the purposes of the Indian Income-tax Act, 1922 (XI of 1922), the Fund shall be deemed to be a recognised provident fund within the meaning of Chapter IX-A of that Act.

5. Coal Mines Bonus Scheme.—(1) The Central Government may, by notification in the official Gazette, frame a scheme to be called the Coal Mines Bonus Scheme for the payment of bonus to "[employees]" and specify the coal mines to which the said scheme shall apply.

(2) A scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the Second Schedule.

6. Retrospective operation of a scheme.—A scheme framed under this Act may provide that any of its provisions shall come into force either prospectively or retrospectively with effect from such date as may be specified in this behalf in the scheme.

7. Modification of a scheme.—The Central Government may, by notification in the official Gazette, add to, amend or vary a scheme framed under this Act.

8. Protection against attachment.—(1) The amount of the provident fund standing to the credit of any member in the Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by the member and neither the Official Assignee nor any Receiver appointed under the Provincial

*See now cl. (1) of sec. 2 of the Mines Act 35 of 1952.

*Subs. for "employees in coal mines" by Act 80 of 1950.

Insolvency Act, 1920 (V of 1920), shall be entitled to, or have any claim on, any such amount.

(2) Any amount standing to the credit of any member in the Fund at the time of his death and payable to his nominee under the Coal Mines Provident Fund Scheme shall, subject to any deduction authorised by the said scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the member.

9. *Penalty.*—(1) Any scheme framed under this Act may provide that any person who contravenes any of the provisions thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No Court shall take cognizance of any offence punishable under any such scheme except on a report in writing of the facts constituting such offence made by an Inspector with the previous sanction of such authority as may be specified in this behalf by the Central Government.

10. *Inspectors.*—(1) The Central Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of the Coal Mines Provident Fund Scheme or the Coal Mines Bonus Scheme and may define their jurisdiction.

(2) An Inspector may, in respect of any coal mine within his jurisdiction,—

(a) require an employer to furnish such information as he may consider necessary for the purposes of any scheme framed under this Act;

(b) at any reasonable time, enter any coal mine or its office and require any one found in charge thereof to produce before him such accounts, books, registers and other documents relating to the employment of persons in the coal mine as he may consider necessary;

(c) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the coal mine or its office or whom the Inspector has reasonable cause to believe to be or to have been an employee in the coal mine.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

10A. *Mode of recovery of money due from an employer.*—Any amount due from an employer in respect of any contribution or bonus under any scheme framed under this Act may be recovered by the Central Government in the same manner as an arrear of land revenue.]

11. *Priority of payment of contributions and bonus over other debts.*—The amount due in respect of any contribution or bonus under

¹Inserted by the Coal Mines Provident Fund and Bonus Schemes (Am.) Act 21 of 1951.

a scheme framed under this Act, or any charges incurred in respect of the administration of any such scheme, shall, where the liability therefor has accrued before the person liable has been adjudicated insolvent or, in the case of a company ordered to be wound up, before the date of such order, be deemed to be included among the debts which, under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920), or under section 230 of the Indian Companies Act, 1913 (VII of 1913), are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of a company being wound up, as the case may be.

*[11A. *Protection for acts done in good faith.*—No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act or under any scheme framed thereunder.]

12. *Repeal of Ordinance VII of 1948.*—(1) The Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948), is hereby repealed.

(2) Notwithstanding any such repeal anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 23rd day of April, 1948.

THE FIRST SCHEDULE

(See section 3).

Matters to be provided for in the Coal Mines Provident Fund Scheme^a.

1. The employees or class of employees who shall join the Fund, the contributions payable to the Fund and the conditions under which an employee may be exempted from joining the Fund or from payment of contributions.

¹[2. Payment of contributions to the Fund by employers and by or on behalf of, employees, the rate, time and manner of such payment and the manner in which such contributions may be recovered.]

3. The payment by the employer of such sums of money as may be considered necessary to meet the cost of administering the Fund and the rate at which and the manner in which [the payment shall be made]^e.

^aInserted by Act 80 of 1950.

^bSee the Coal Mines Provident Fund Scheme, 1948. (*Vide* Notification No. P.F. 15 (5)/48, dated 11th December, 1948); see also the Coal Mines Provident Fund Office Establishment (Contributory Provident Fund) Regulations, 1952 (framed under para. 24(2) of the above Scheme). (*Vide* Notification No. S.R.O. 798, d/- 23-4-52, pub. in Gazette of India, d/- 3-5-52, Pt. II—Sec. 3, pp. 757—764). See p. 105 *et seq.* *Infra*.

^cSubs. for original paragraph 2 by Act 21 of 1951. This substitution shall be deemed always to have been made, (*vide* cl. (a) of sec. 3 of Act 21 of 1951).

^eSubs. for the words "it shall be paid" by Act 21 of 1951.

4. The constitution of a Board of Trustees consisting of nominees of the Central Government and representatives of employers and employees nominated by the Central Government in consultation with the representative organisations concerned, subject to the condition that the number of the representatives of the employees shall not be less than the number of the representatives of the employers; the number of Trustees and the terms and conditions under which they may be nominated, and the time, place and procedure of meetings of the Board.

5. The appointment of officers and servants of the Board and the opening of regional and other offices.

6. The manner in which accounts shall be kept, the investment of moneys belonging to the Fund, the preparation of a budget, the audit of accounts and the submission of reports to the Central Government.

7. The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.

8. The fixation of the rate of interest payable to members by the Central Government in consultation with the Board of Trustees.

9. The form in which an employee shall furnish particulars about himself and his family when required.

10. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or the change of such nomination.

11. The registers and records to be maintained by the employer and the returns to be furnished by him.

12. The form or design of an identity card or a token or a disc for purposes of identifying any employee and for the issue, custody and replacement thereof.

13. The fees to be levied for any of the purposes specified in this Schedule.

14. Any other matter which may be necessary or proper for the purpose of implementing the Coal Mines Provident Fund Scheme.

THE SECOND SCHEDULE

(See section 5)

Matters to be provided for in the Coal Mines Bonus Scheme¹

1. The payment of bonus dependent on the attendance of an '[employee]' during any period.

2. The employees or class of employees who shall be eligible for the bonus and the conditions of eligibility.

¹See the Coal Mines Bonus Scheme, 1948 (vide Notification No. P.F. 16(1)/48, d/- 3-7-48, pub. in Gazette of India, Extraordinary, d/- 3-7-48); and see the Hyderabad Coal Mines Bonus Scheme, 1952 (vide Notification No. S.R.O. 1705, d/- 4-10-52, pub. in Gazette of India, d/- 11-10-52, Pt. II—Sec. 3 pp. 1530—1537). See p. 91 *et seq.*

²Subs. for "employee in a coal mine" by Act 80 of 1950.

3. The rate at which the bonus shall be payable to an employee and the manner in which the bonus shall be calculated.

4. The conditions under which an employee may be debarred from getting the bonus in whole or in part:

5. The rate at which sums shall be set apart by the employer for payment of bonus, and the time and manner of such payment.

6. The registers and records to be maintained by the employer and the returns to be furnished by him.

7. Any other matter which may be necessary or proper for the purpose of implementing the Coal Mines Bonus Scheme.

COAL MINES BONUS SCHEME, 1948¹.

1. *Short title and application*.—(i) This Scheme may be called the Coal Mines Bonus Scheme.

(ii) It shall apply to all coal mines in West Bengal, Bihar, ²[Madhya Pradesh] and Orissa.

(iii) The provisions of this Scheme shall be deemed to have come into force on the twelfth of May 1947 in respect of the coal mines in West Bengal and Bihar and on the tenth of October 1947 in respect of the coal mines in ³[Madhya Pradesh] and Orissa.

2. *Definitions*.—In this Scheme unless there is anything repugnant in the subject or context—

⁴[(a) "basic earnings" mean the total cash emoluments, whether earned while on duty or while on leave with pay, but excluding all payments for food concession, dearness, house rent and other similar allowances, overtime, commission, presents or donations;]

⁵[(aa)] "category I employee" means an underground miner or any other underground piece worker;

(b) "category II employee" means an employee in a coal mine other than a category I employee;

¹This Scheme was framed under the provisions of sec. 6 of the Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948); *Vide* Ministry of Labour Notification No. P.F. 16(1)/48, d/- 3-7-48. The Ordinance has been repealed by sec. 12 of the Coal Mines Provident Fund and Bonus Schemes Act 46 of 1948, but in pursuance of the provisions of that section this Scheme is deemed to have been made under Act 46 of 1948.

The Scheme has been extended to the partially excluded areas of West Bengal by Notification No. P.F. 15(9)/50, d/- 23-2-50, *see* Gazette of India, d/- 4-3-50, Pt. I—Sec. 1, p. 297.

²Subs. for "the Central Provinces and Berar" by L.A.O., 1950.

³[Cl. (a) re-lettered as cl. (aa) and before clause (aa) as so re-lettered new cl. (a) added by Notification No. S.R.O. 421, d/- 9-8-50, *vide* Gazette of India, d/- 10-8-50, Pt. II—Sec. 3, p. 411.

(c) "Chief Inspector of Mines" has the meaning assigned to it in sub-section (1) of section 4 of the Indian Mines Act, 1923 (IV of 1923)*;

(d) "illegal strike" means a strike which is illegal within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947);

(e) "quarter" means a period of three calendar months commencing on the first of January, the first of April, the first of July and the first of October of each year;

(f) "Ordinance" means the Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948)*;

(g) "Regional Labour Commissioner" means an officer appointed as such by the Central Government; and

(h) "temporary disablement" means a condition resulting from a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment in a coal mine, which requires medical treatment and renders the employee temporarily incapable of work and which entitles such employee to compensation under the Workmen's Compensation Act, 1923 (VIII of 1923).

3. Class of employees eligible to qualify for bonus.—Except as hereinafter provided, every employee in a coal mine to which this Scheme applies shall be eligible to qualify for a bonus.

Exceptions.—An employee in a coal mine shall not be entitled to a bonus under the Scheme for the period during which—

(a) his basic earnings exceed three hundred rupees per month; or

(b) he is employed as a mali, sweeper or domestic servant on domestic and personal work; or

"[(c) he is employed in a State Railway Coal Mine, on pay and under conditions of service, which for the time being are similar to those obtaining in other Railway establishments, or under conditions of service which entitle him to pension under the Civil Rules, or]

(d) he is employed as a labourer of a contractor for building, brick making or tile making.

4. Qualification for bonus in coal mines in West Bengal and Bihar.—An employee in a coal mine in West Bengal or Bihar shall qualify for a bonus from his employer—

(a) in respect of the period from the twelfth of May 1947 to the thirty first of December 1947, provided he has put in attendance in the coal mine during that period for not less than 121 days if a category I employee, or for not less than 169 days if a category II employee;

* See now sub-sec. (1) of sec. 5 of the Mines Act 35 of 1952 which has repealed Act 4 of 1923.

* Since rep. by Act 46 of 1948.

* Subs. for original cl. (c) by Notification No. S. R. O. 2405, d/- 13-7-54, pub. in Gazette of India, d/- 17-7-54, Pt. II-Sec. 3, pp. 1801-1802.

(b) in respect of the quarter commencing on the first of January 1948 or any subsequent quarter, provided he puts in attendance in the coal mine during that quarter for not less than 54 days if a category I employee, or for not less than 66 days if a category II employee.

5. *Qualification for bonus in coal mines in* ⁴³[Madhya Pradesh] *and Orissa.*—An employee in a coal mine in ⁴⁴[Madhya Pradesh] or Orissa shall qualify for a bonus from his employer—

(a) in respect of the period from the tenth of October 1947 to the ninth of January 1948, provided he has put in attendance in the coal mine during that period for not less than 60 days if a category I employee, or for not less than 65 days if a category II employee;

(b) in respect of the period from the tenth of January 1948 to the thirty-first of March 1948, provided he has put in attendance in the coal mine during that period for not less than 54 days if a category I employee, or for not less than 59 days if a category II employee;

(c) in respect of the quarter commencing on the first of April 1948 or any subsequent quarter, provided he puts in attendance in a coal mine during that quarter for not less than 60 days if a category I employee, or for not less than 65 days if a category II employee.

6. *Allowance for leave etc.*—(1) For the purposes of paragraphs 4 and 5 of this Scheme, leave (including sick leave) granted by the employer to an aggregate of 21 days in a calendar year and days of idleness caused by any temporary breakdown of machinery or any other technical reason shall count as days of attendance.

(2) If on any working day in any period or quarter, as the case may be, an employee is on maternity leave or is unable to attend work owing to temporary disablement, the number of days for which he must put in attendance to qualify for bonus under paragraphs 4 and 5 shall be reduced by 70 per cent. of such working days if a category I employee, or by 85 per cent. of such working days if a category II employee.

Explanation.—In calculating the 70 per cent. or 85 per cent. of such working days, a fraction less than half shall be disregarded and not less than half shall count as one.

(3) If in any period or quarter any day, other than the weekly holiday, is observed as a closed holiday in any coal mine, the number of days for which the employees must put in attendance in such period or quarter to qualify for bonus under paragraphs 4 and 5 shall be reduced, in respect of such coal mine, by one if there be not more than two such closed holidays, by two if there be more than two but not more than four such closed holidays and by three if there be more than four such closed holidays: Provided that the number of days so reduced in a year shall not exceed three. In the event of a dispute as to whether a day is a closed holiday or not, the decision of the Chief Inspector of Mines shall be final.

⁴³Subs. for "the Central Provinces and Berar" by I. A. O., 1050.

7. *Amount of bonus.*—(1) The amount of bonus payable to an employee in a coal mine in West Bengal or Bihar in respect of the period from the twelfth of May 1947 to the thirty-first of December 1947, the quarter commencing on the first of January 1948 and the quarter commencing on the first of April 1948, shall be calculated in the manner specified in the Schedule annexed hereto.

(2) The amount of bonus payable to an employee in respect of any quarter after the thirtieth of June 1948 in the case of coal mines in West Bengal and Bihar and in respect of any period or quarter in the case of coal mines in ⁴⁸[Madhya Pradesh] and Orissa shall be one-third of the basic earnings of the employee for work done in that period or quarter in the coal mine wherein he qualifies for bonus.

(3) Unless the employee entitled to a bonus is a member of a provident fund, recognised under the Indian Income Tax Act, 1922 (XI of 1922), or to which the Provident Funds Act, 1925 (XIX of 1925) applies, the employer shall, before paying him the amount of bonus, deduct a sum equivalent to three annas in a rupee of the amount of bonus in respect of the periods or quarters from the twelfth of May 1947 to the thirtieth of September 1948 in the case of coal mines in West Bengal and Bihar and from the tenth of January 1948 to the thirtieth of September 1948 in the case of coal mines in ⁴⁹[Madhya Pradesh] and Orissa, for credit to the account of the employee in the Coal Mines Provident Fund.

8. *Effect of participation in illegal strike.*—(1) If an illegal strike takes place in a coal mine in any period or quarter, no bonus shall be payable in respect of the period or quarter, as the case may be, to all those who participate in such illegal strike:

⁵⁰[Provided that where any illegal strike is called off within 48 hours of its commencement, the amount of bonus that would have fallen due to the employees but for such participation shall be paid by the employers for the credit to the "Reserve Account" of the Coal Mines Provident Fund established under the Coal Mines Provident Fund Scheme published with the Notification of the Government of India in the Ministry of Labour No. PF. 15(5)/48, dated, the 11th December, 1948.]

⁵¹[(1A) The payment of the amount of bonus referred to in the proviso to sub-paragraph (1) shall be made by deposit in such government treasury and under such head of account as the Central Government may direct and the original treasury chalan whereby the deposit has been made shall be sent within a fortnight of the date of the deposit to the Coal Mines Provident Fund Commissioner together with a statement in such form as he may specify in this behalf.]

⁴⁸ See *ibid.* ⁴⁹ at p. 93.

⁵⁰ Subs. for former proviso by Notification No. S.R.O. 729 d/- 21-4-52, *see* Gazette of India, d/- 26-4-52, Pt. II—Sec. 3, pp. 698-699.

⁵¹ Inserted by *ibid.*, *see ibid.*, p. 699.

(2) If any dispute arises whether a strike is legal or illegal for the purposes of this Scheme, the employer or an employee may make an application to the Regional Labour Commissioner having jurisdiction in the area in which the coal mine is situated for decision whether the strike is legal or illegal.

(3) The Regional Labour Commissioner shall, on payment of such fee as may be specified by him, give a copy of the decision to the employer or an employee asking for the same.

(4) An appeal from the decision of the Regional Labour Commissioner shall lie to the Industrial Tribunal at Dhanbad whose decision shall be final.

⁸⁸[(4A) The Tribunal may, pending decision of the appeal, direct that the order of payment of the bonus shall be stayed.]

(5) The period of limitation for appeal under this paragraph shall be thirty days from the date of the order appealed from.

(6) The provisions of sections 5 and 12 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to appeals under this paragraph.

(7) The Regional Labour Commissioner or the Tribunal shall decide the dispute after giving reasonable notice to the parties interested in the dispute and after affording them an opportunity of being heard.

9. When bonus payable.—(1) The bonus in respect of a period or quarter up to the thirtieth of June 1948 shall be paid to an employee entitled to it at such time and in such manner as the Central Government may, by order, direct.

(2) The bonus in respect of the quarter commencing on the first of July 1948 or any subsequent quarter shall be paid to an employee entitled to it within a period of two months from the last date of the quarter.

⁸⁹[Provided that where an employer has made an application under sub-paragraph (2) of paragraph 8, the bonus shall be paid within a period of thirty days from the date of decision on the application, if the decision is that the strike was illegal, or, where an appeal is filed against that decision under sub-paragraph (4) of that paragraph, within such period as the appellate authority may direct or in the absence of any such direction, within ten days of the dismissal of the appeal.]

(3) Any bonus paid to an employee before the date on which this Scheme is notified, in respect of a period or quarter for which bonus is payable as herein provided shall be deemed to have been paid under this Scheme.

(4) A bonus due before the date of notification of this Scheme shall, if not paid earlier, be paid within six weeks from the date of such notification.

10. Returns.—Within a period of one month from the last date by which any bonus is required to be paid under the provisions of paragraph 9, the employer shall submit returns in Forms I and II to

⁸⁸ Added by Notification No. S. R. O. 460, d/- 27-3-51, pub. in Gazette of India, d/- 31-3-51, Pt. II—Sec. 3, p. 573.

the Regional Labour Commissioner having jurisdiction in the area in which the coal mine is situated.

11. Registers.—(1) Every employer shall from the first of October 1948 maintain a register of persons employed underground in his coal mine in Form III and the register shall show at any moment the name of every person then working underground.

(2) All entries in this register shall be made at the entrance or entrances to the coal mine when the persons against whose names entries are made enter or leave the coal mine.

(3) Every employer shall from the first of October 1948 maintain a register of persons employed in open workings and on the surface in Forms IV and V respectively. The register shall be kept at the office of the coal mine or at some other building at a convenient place not far from the coal mine.

(4) The registers required to be maintained by sub-paragraphs (1) and (3) shall be preserved for twelve months after the date of the last entry made therein.

¹[**11A. Obligation to produce documents before Inspector.**—Where an Inspector in exercise of the powers conferred on him under clause (b) of sub-section (2) of section 10 of the Act requires any person in charge of a coal mine or its office to produce any document before him that person shall produce such document before the Inspector.]

12. Penalties.—(1) Any employer who—

(a) refuses, or without reasonable cause, fails to pay any bonus within the period specified for the payment thereof to a person entitled to it under this Scheme; or

(b) makes any false entry or statement in any return or register required to be sent or maintained under this Scheme with a view to avoiding payment, or reducing the amount, of any bonus payable under this Scheme; or

(c) fails to maintain up to date and in the manner prescribed the registers required under paragraph 11 of this Scheme; shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding one thousand rupees or with both.

(2) Any employer who fails to furnish any return required under paragraph 10 of this Scheme shall be punishable with fine not exceeding one thousand rupees.

²[(3) Whoever, in contravention of the provisions of paragraph 11A refuses or fails to produce any document before an Inspector shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.]

¹ Inserted by Notification No. S.R.O. 796, d/- 24-4-52, see Gazette of India, d/- 3-5-52, Pt. II—Sec. 3, p. 765.

² Inserted by *ibid.*, see *ibid.*

SCHEDULE

(See paragraph 7)

Amount of Bonus (before deduction for provident fund payable in coal mines in West Bengal and Bihar) for the period from 12th May 1947 to 31st December 1947.

Piece-rated employees.

(a) Underground piece workers (including underground piece-rated trammers and surface piece-rated trammers and male wagon loaders) (assumed daily basic wage -12 annas). Rs. 49/14/- each.

(b) Male surface piece-rated workers (other than surface piece-rated trammers and male wagon loaders) (assumed daily basic wage -8 annas). Rs. 33/4/- each.

(c) Female wagon loaders on piece work (assumed daily basic wage -7½ as.) Rs. 31/3/- each.

(d) Other females and minors on piece work (assumed daily basic wage -5 annas). Rs. 20/12/- each.

Other employees.

For the monthly rated employees the amount stated in Table A against the basic wage payable for the last month of the period and for other employees the amount as stated in Table B against the basic wage payable for the first working day of the last month of the period, irrespective of whether or not the employee actually attended work in that month or on that day. For weekly rated employees the basic wage payable for the first working day of the last month of the period shall be taken to be one-sixth of the basic wage payable if the employee had attended work throughout the week containing that day.

For the quarter from 1st January 1948 to 31st March 1948 and from 1st April 1948 to 30th June 1948.

Piece-rated employees.

(a) Underground piece workers (including underground piece-rated trammers and surface piece-rated trammers and male wagon loaders) (assumed daily basic wage -12 as.) Rs. 19/8/- each.

(b) Male surface piece-rated workers (other than surface piece-rated trammers and male wagon loaders) (assumed daily basic wage -8 as.) Rs. 13/- each.

(c) Female wagon loaders on piece work (assumed daily basic wage -7½ as.) Rs. 12/3/- each.

(d) Other females and minors on piece work (assumed daily basic wage -5 as.) Rs. 8/2/- each.

Other employees.

Monthly rated employees—Basic pay for the last month of the quarter.

Other time-rated employees—26 times the basic wage payable for the first working day of the last month of the quarter and for the weekly rated worker 26 times the daily rate of basic wage for the last complete week of the quarter irrespective of whether or not the employee actually worked on that day or in that week.

Explanation.—A weekly rated worker is a worker whose wage is expressed as a stated amount per week as opposed to a daily rated worker who is paid a stated amount per day, but who receives his earning weekly.

TABLE A		TABLE B	
Basic wage per month	Gross amount of Bonus	Basic wage per day	Gross amount of Bonus
Rs. as.	Rs. as.	Rs. as.	Rs. as.
0 4	0 10	0 5	20 12
0 8	1 4	0 6	21 15
1 0	2 9	0 7	29 1
2 0	5 2	0 7½	31 3
3 0	7 11	0 8	33 4
4 0	10 4	0 9	37 6
5 0	12 13	0 10	41 9
20 0	51 2	0 11	45 11
25 0	63 15	0 12	49 14
		0 13	51 0
		0 14	58 3
		0 15	62 5
		1 0	66 8
30 0	76 12	1 1	70 10
40 0	102 5	1 2	74 13
50 0	127 14	1 3	78 15
60 0	153 7	1 4	83 2
70 0	179 0	1 5	87 4
80 0	204 9	1 6	91 7
90 0	230 3	1 7	95 9
100 0	255 12	1 8	99 12
		1 9	103 14
110 0	281 5	1 10	108 1
120 0	306 14	1 11	112 3
130 0	332 7	1 12	116 6
140 0	358 1	1 13	120 8
150 0	383 10	1 14	124 11
160 0	409 3	1 15	128 13
170 0	434 12	2 0	133 0
180 0	460 5	2 1	137 2
190 0	485 14	2 2	141 5
200 0	511 8	2 3	145 7
		2 4	149 10
		2 5	153 12
		2 6	157 15
		2 7	162 1
		2 8	166 4
210 0	537 1	2 9	170 6
220 0	562 10	2 10	174 9
230 0	588 3	2 11	178 11
240 0	613 12	2 12	182 14
250 0	639 6	2 13	187 0
260 0	664 15	2 14	191 3
270 0	690 8	2 15	195 5
280 0	716 1	3 0	199 8
290 0	741 10		
300 0	767 3		

FORM L

(See Paragraph 10)

Name of employer _____ Address _____		Employer No. _____ Period or Quarter _____ to _____ 194 _____					
	No. of employees who worked in the coal mine in the period or quarter.	No. of employees who qualified for bonus for the period or quarter.	Amount of bonus payable.	No. of employees out of (3) to whom bonuses have actually been paid.	Amount of bonuses out of (4) actually paid.	No. of employees to whom bonuses have not been paid.	Amount of bonus due but not paid.
1	2	3	4	5	6	7	8
Nature of employment.							
Supervisory & clerical.							
Under-ground.							
Miners and other under-ground piece workers							
Other under-ground workers							
Others.							
Men							
Women							
Minors							
Total							

FORM III.

(See Paragraph 12)

All entries to be made in English.

Number of Relay _____
 Hours of Relay _____
 Register of persons employed under-ground during the week commencing _____ and ending _____ 19____
 Name of Mine _____
 Name of Owner _____

(TIME SHOULD BE RECORDED AGAINST AN ENTRY WHEREVER IT DIFFERS FROM
 THE HOURS OF RELAY STATED ABOVE)

Serial No.	Name of person	Nature of work	Relay	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Number of days worked during the week.	Hours worked during week.	Remarks.								
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22

*Weekly Abstract.**Classification.*

Miners and loaders _____ Aggregate number of attendances during the week _____ Aggregate number of absentees during the week _____

Others _____

MANAGER

Date _____

Signature of Register Keeper,

Date _____

FORM IV.

(See Paragraph 11)

All entries to be made in English.

Number of Relay _____
 Hours of Relay _____
 Register of persons employed in Open Workings during the week commencing _____ and ending _____ 19 ____
 Name of Mine _____
 Name of Owner _____

(TIME SHOULD BE RECORDED AGAINST AN ENTRY WHEREVER IT DIFFERS FROM
 THE HOURS OF RELAY STATED ABOVE)

Serial No.	Name of person	Nature of work	Relay		Sunday		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Number of days worked during the week.	Hours worked during week.	Remarks.
			in	out	in	out	in	out	in	out	in	out	in	out	in	out	in	out			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	

*Weekly Abstract.**Classification.*

Miners and loaders _____ Aggregate number of attendances during the week. Aggregate number of absentees during the week.

Others _____
 Women _____

Signature of Register Keeper.

Date _____

MANAGER

Date _____

FORM V.

(See Paragraph 11)

All entries to be made in English.

Number of Relay _____
 Hours of Relay _____ and ending _____ 19 _____
 Register of persons employed on surface during the week commencing _____
 Name of Mine _____
 Name of Owner _____

(TIME SHOULD BE RECORDED AGAINST AN ENTRY WHEREVER IT DIFFERS FROM
 THE HOURS OF RELAY STATED ABOVE)

Serial No.	Name of person	Nature of work	Relay	Sunday		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Number of days worked during the week	Hours worked during week.	Remarks.
				in	out	in	out	in	out	in	out	in	out	in	out	in	out			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21

*Weekly Abstract.**Classification.*

Aggregate number of attendances during the week. Aggregate number of absentees during the week.

Men

Women

MANAGER

Date _____

Signature of Register Keeper.

Date _____

THE COAL MINES PROVIDENT FUND SCHEME, 1948¹.

1. *Short title and application.*—(i) This Scheme may be called the Coal Mines Provident Fund Scheme.

(ii) It shall apply to all coal mines in West Bengal, Bihar, ²[Madhya Pradesh] and Orissa.

(iii) The provisions of this Scheme shall be deemed to have come into force with effect from the twelfth of May 1947 in respect of coal mines in West Bengal and Bihar and with effect from the tenth of October 1947 in respect of coal mines in ²[Madhya Pradesh] and Orissa.

2. *Definitions.*—In this Scheme, unless there is anything repugnant in the subject or context—

(a) "Act" means the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948);

(b) "basic wages" means the total cash emoluments, whether earned while on duty or while on leave with pay, but excluding all payments for food concession, dearness, house rent and other similar allowances, overtime, bonus, commission, presents or donations;

(c) "Board" means the Board of Trustees constituted under paragraph 3 of this Scheme;

(d) "children" means legitimate children and includes adopted children if the Executive Committee is satisfied that under the personal law of the member, adoption of a child is legally recognised;

(e) "Commissioner" means the Coal Mines Provident Fund Commissioner appointed under paragraph 23 of this Scheme;

(f) "Committee" means the Executive Committee constituted under sub-paragraph (2) of paragraph 3 of this Scheme;

(g) "excluded employee" means an employee who, having been a member of the Fund once, withdrew the full amount of his accumulations in the Fund on permanent retirement after attainment of the age of 50 years or on retirement on account of total incapacity due to bodily or mental infirmity;

(h) "family" means—

(i) in the case of a male member, the wife, children, and dependent parents of the member, and the widow and children of a deceased son of the member;

Provided that if a member proves that his wife has ceased under the personal law governing him or the customary law of the community to which the spouse belongs to be entitled to maintenance she shall not

¹See Ministry of Labour Notification No. PP. 15 (5)/48, dated the 11th December, 1948.

The Scheme has been extended to the partially excluded areas of West Bengal by Notification No. PP. 15 (9)/50 d/- 23-2-50, see Gazette of India, d/- 4-3-50, Pt. I—Sec. 1, p. 297.

²Subs. for "the Central Provinces and Berar" by L. A. O., 1950.

longer be deemed to be a part of the member's family in matters to which this Scheme relates, unless the member subsequently intimates by express notice in writing to the Commissioner that she shall continue to be so regarded; and

(ii) in the case of a female member, the husband and children of the member, the dependent parents of the husband, and the widow and children of a deceased son of the member;

Provided that if a member by notice in writing to the Commissioner expresses her desire to exclude her husband from the family, the husband shall no longer be deemed to be a part of the member's family in matters to which the Scheme relates, unless the member subsequently cancels in writing any such notice.

Explanation.—In either of the above two cases, if the child of a member has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognised such a child shall be considered as excluded from the family of the member:

(i) "Inspector" means a person appointed as such under section 10 of the Act;

(j) "member" shall have the meaning assigned in the Act and shall include initial member;

(k) "period of membership" means in respect of a member the period beginning with the date from which the first contribution is paid in respect of such member and ending with the date of the application on which he is permitted to withdraw the amount standing to his credit in the Fund under paragraph 63;

(l) "quarter" means a period of three calendar months commencing on the first of January, the first of April, the first of July and the first of October of each year;

(m) "wages" has the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (IV of 1936).

3. *Composition of Board of Trustees and Executive Committee.*—

(1) The Fund shall be administered by a Board of Trustees to be constituted by the Central Government consisting of the following persons, namely:—

(a) a Chairman, nominated by the Central Government;

(b) not more than six persons, to be nominated by the Central Government, of whom at least three shall be officials of that Government;

(c) (i) two persons, nominated by the Indian Mining Association;

(ii) one person, nominated by the Indian Mining Federation;

(iii) one person, nominated by the Indian Colliery Owners' Association;

(iv) one person, nominated by the C. P. and Berar Mining Association;

(v) one person, nominated by the Central Government to represent other employers;

(d) six persons, representing employees in coal mines to be nominated by the Central Government of whom—

(i) five shall be nominated in consultations with such organisations of employees as may be recognised by the Central Government, at least one nominee being an employee and

(ii) one shall represent the employees outside the organisations:

Provided that if any of the bodies referred to in sub-clauses (i) to (iv) of clause (c) fails to make the nomination within a period of thirty days from the date on which the Central Government asks for it, the Central Government may itself make the nomination.

(2) An Executive Committee of the Board shall be constituted from among the trustees, consisting of:—

(a) a Chairman, nominated by the Central Government;

(b) two persons, nominated by the Central Government from among the trustees nominated under clause (b) of sub-paragraph (1);

(c) four persons, elected at the annual meeting of the Board as follows:—

(i) two persons, from among the trustees nominated under clause (c) of sub-paragraph (1);

(ii) two persons, from among the trustees nominated under clause (d) of sub-paragraph (1).

(3) The Minister of Labour in the Government of India may attend any meeting of the Board or of the Committee and when he so attends, he shall preside at the meeting.

(4) The Secretary to the Government of India in the Ministry of Labour may also attend any meeting of the Board or of the Committee and when he so attends, he shall, unless the Minister for Labour is also present, preside at the meeting.

4. *Terms of office.*—(1) Save as otherwise expressly provided in this Scheme, the term of the office of the trustees other than those referred to in clauses (a) and (b) of sub-paragraph (1) of paragraph 3 shall be five years commencing on the date on which their nomination is notified in the Official Gazette:

Provided that a trustee shall notwithstanding the expiry of the said period of five years continue to hold office until the nomination of his successor is notified.

(2) The trustee referred to in clauses (a) and (b) of sub-paragraph (1) of paragraph 3 shall hold office during the pleasure of the Central Government.

(3) The trustees elected to the Committee shall hold office as the members of the said Committee till the date of the next annual meeting of the Board:

Provided that a member of the Committee shall cease to hold office when he ceases to be a trustee.

(4) The persons nominated by the Central Government to the

Committee shall hold office during the pleasure of the Central Government.

(5) An out-going trustee or member of the Committee shall be eligible for renomination or re-election as the case may be.

5. *Resignation.*—A trustee or member of the Committee may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance of the resignation by that Government.

6. *Cessation of membership.*—A trustee or member of the Committee shall cease to be such trustee or member, if he fails to attend three consecutive meetings of the Board or the Committee without obtaining leave of absence from the Chairman of the Board or the Committee, as the case may be:

Provided that the Central Government may restore him to trusteeship or membership, as the case may be, if it is satisfied that there were reasonable grounds for the absence.

7. *Removal from membership.*—The Central Government may remove from office any trustee if it is satisfied that the trustee has ceased to represent the interests on whose behalf he was nominated. The trustee so removed shall cease to be a member of the Committee if he is on the Committee.

8. *Absence from India.*—(1) Before a non-official trustee leaves India—

(a) he shall intimate to the Chairman of the Board and if he is also a member of the Committee the Chairman of the Committee of the dates of his departure from and expected return to India, or

(b) if he intends to absent himself for a longer period than six months, he shall tender his resignation.

(2) If any trustee leaves India without intimation to the Chairman of the Board, he shall be deemed to have resigned from the Board with effect from the date of his departure from India.

9. *Filling of vacancies.*—(1) Not less than one month but not earlier than two months before the tenure of trustees other than trustees nominated by the Central Government is to expire, or when any casual vacancy occurs among any such trustees, the Central Government shall, by notice in writing, call upon the body concerned to nominate a person to fill the vacancy and such nomination shall be made within thirty days of the date of issue of such notice:

Provided that if any body fails to make the nomination within the period specified, the Central Government may itself nominate a person and fill the vacancy.

(2) Vacancies in the office of nominated or elected trustees or members of the Committee shall be filled by nomination or election as the case may be:

Provided that the Central Government may nominate a trustee to

fill a vacancy in the office of an elected member of the Committee until such time as the next meeting of the Board is held.

(3) A trustee or member of the Committee nominated or elected to fill a casual vacancy shall hold office only for so long as the member in whose place he is nominated or elected would have been entitled to hold office if the vacancy had not occurred.

10. Vacation of office.—A person shall be disqualified for being a trustee—

(a) if he is declared to be of unsound mind by a competent Court; or

(b) if he is an undischarged insolvent; or

(c) if he has been convicted of any offence which in the opinion of the Central Government involves moral turpitude.

11. Authentication of orders, decisions, etc.—All orders and decisions of the Board or the Committee shall be authenticated by the signature of its Chairman or by some other officer or member of the Board or the Committee, as the case may be, authorised by it in this behalf.

12. Powers of the Executive Committee.—Subject to the general superintendence and control of the Board, the Committee shall administer the affairs of the Fund and may exercise such powers and perform such functions as may be delegated to it by the Board.

13. Disposal of business.—(1) Every question which is to be considered by the Board shall be considered either at its meeting or, if the Chairman so directs, by sending the necessary papers to all the trustees for their opinion:

Provided that the papers need not be sent to a trustee who is absent from India at that time.

(2) When a question is referred under sub-paragraph (1) for opinion, any trustee may request that the question be considered at a meeting of the Board and thereupon, the Chairman, may, and if the request is made by not less than three trustees, shall, direct that it be so considered.

(3) Every question which the Committee is required to take into consideration shall be considered at a meeting of the Committee.

14. Meetings of Board of Trustees and Executive Committee.—The Board and the Committee shall meet at such place and time as may be appointed by the Chairman of the Board or the Committee as the case may be.

15. Notice of meeting and list of business.—(1) Notice of not less than fifteen days from the date of posting shall be given of the time and place fixed for each ordinary meeting of the Board or of the Committee to every trustee or, as the case may be, to every member of the Committee present in India and to such notice shall be attached a list of business to be discussed at the meeting:

Provided that when the Chairman calls a meeting for considering any matter which in his opinion is urgent, a notice giving such reasonable time as he may consider necessary, shall be deemed sufficient.

(2) No business which is not on the list shall be considered at the meeting except with the permission of the Chairman.

16. Presiding at meeting.—The Chairman of the Board or of the Committee as the case may be, shall, save as provided in sub-paragraphs (3) and (4) of paragraph 3, preside at every meeting of the Board or of the Committee at which he is present. If the Chairman is absent at any time, the trustees, or the members of the Committee, present shall elect one of their number to preside over the meeting and the trustee or member so elected shall at that meeting exercise all the powers of the Chairman.

17. Quorum.—(1) No business shall be transacted at a meeting of the Board, whether ordinary or emergent, unless at least seven trustees are present of whom at least two shall be trustees nominated under clause (c) and at least two nominated under clause (d) of sub-paragraph (1) of paragraph 3.

(2) No business shall be transacted at a meeting of the Committee, whether ordinary or emergent, unless at least four members are present of whom at least one shall be a member elected under sub-clause (i) and at least one elected under sub-clause (ii) of clause (c) of sub-paragraph (2) of paragraph 3.

(3) If at any meeting the number of trustees or members of the Committee, as the case may be, is less than the required quorum, the Chairman shall adjourn the meeting to a date not less than seven days later informing the trustees or members present and also the other trustees or members of the date, time and place of the adjourned meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting whether the quorum is secured or not.

18. Recommendation by majority.—(1) Every question at a meeting of the Board or the Committee shall be decided by a majority of votes of the trustees or members of the Committee present and voting, but the minority may require their dissent to be noted.

(2) Every question referred to the trustees for opinion shall, unless the Chairman in pursuance of sub-paragraph (2) of paragraph 13 reserves it for consideration at a meeting, be decided in accordance with the opinions received within the time limit allowed.

(3) In the case of equality of votes or opinions, the Chairman shall exercise an additional vote or opinion.

19. Minutes of meetings.—(1) The proceedings of a meeting of the Board or of the Committee shall be circulated to all trustees or members, as the case may be, present in India and thereafter they shall be recorded in a minute book to be kept as a permanent record.

(2) The record of the proceedings of each meeting shall be signed by the Chairman after confirmation at the next meeting.

20. Acts of the Board etc. not invalid by reason of defect in constitution etc.—No act of the Board or the Committee shall be deemed to be invalid by reason of any defect in the constitution of the Board or the Committee or on the ground that any trustee or member thereof was not entitled to hold or continue in office by reason of any disqualification or of any irregularity in his nomination or election or by reason of such act having been done during the period of any vacancy in the Board or the Committee.

21. Fees and allowances.—(1) The travelling allowance of an official trustee shall be governed by the rules applicable to him for journeys performed on official duty and shall be paid by the authority paying his salary.

(2) Every non-official trustee shall be paid an allowance of Rs. 12-8 for each day on which he attends a meeting of the Board and/or the Committee and travelling allowance at $1\frac{1}{2}$ railway fares of the highest class from and to his usual place of business or from and to the place the journey is actually performed whichever is less, plus road mileage at annas eight per mile for the journey not covered by railway.

NOTE.—(1) No daily or travelling allowance in respect of any day or journey, as the case may be, shall be claimed from the Fund by a trustee if he has drawn or will draw allowance for the same from his employer or as a member of the Legislature or of any Committee or Conference of Government and no travelling allowance shall be claimed if he uses a means of locomotion provided at the expense of Government or his employer.

NOTE.—(2) Where the journey is performed by road between places connected by railway, road mileage shall be paid only if the trustee concerned certifies that the journey was undertaken by road to avoid loss of time which the journey by railway would have entailed and the distance travelled does not exceed 75 miles in a single journey.

22. Powers of the Central Government until the Board is constituted.—(1) Until the Board of Trustees is constituted the Central Government shall administer the affairs of the Fund and may exercise any of the powers and perform any of the functions of the Board.

(2) All property acquired before the Board is constituted shall vest in the Board and all income derived and expenditure incurred in this behalf shall be brought into the books of the Fund.

23. Coal Mines Provident Fund Commissioner.—(1) The Central Government may appoint a Coal Mines Provident Fund Commissioner who shall be the Chief Executive Officer of the Fund and shall be subject to the general control and superintendence of the Board and the Committee.

(2) The Commissioner shall be a whole time officer of the Fund and shall not undertake any work not connected with his office without the sanction of the Central Government.

(3) The Commissioner shall hold office for such period, not exceeding 5 years, as may be specified in the order appointing him. An out-going Commissioner shall be eligible for re-employment if he is otherwise qualified.

(4) The Commissioner shall receive such salary and allowances and be subject to such other conditions of service as may be specified by the Central Government from time to time.

(5) A person shall be disqualified from being the Commissioner if he is subject to any of the disqualifications specified in paragraph 10.

(6) The Central Government may at any time remove the Commissioner from office and shall do so if such removal is recommended by a resolution of the Board passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Board.

24. Staff.—(1) The Board may employ such staff as may be necessary for the efficient administration of this Scheme:

Provided that the sanction of the Central Government shall be obtained for the creation of any post with maximum salary of Rs. 500 and above, and the duration of which is likely to be more than six months.

(2) The Board shall, with the approval of the Central Government, make regulations regarding the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the members of its staff:

Provided that the scale of pay and allowances of the members of the staff shall be generally in accordance with the scales sanctioned by the Central Government for similar posts.

(3) Every appointment to posts carrying a starting monthly salary of Rs. 275 and above shall be made by the Central Government.

(4) Persons appointed by the Board and paid from the Fund shall not be deemed to be Government servants notwithstanding that the Central Government may direct that any service rules applicable to Government servants may apply with or without modifications to such persons.

25. Class of employees required to join the Fund.—(1) Every employee in a coal mine to which this Scheme applies, other than an excluded employee, shall be required to join the Fund and become a member immediately after the end of the quarter following any quarter after the thirtieth September 1948, in which he qualified for a bonus under sub-paragraph (b) of paragraph 4 or sub-paragraph (c) of paragraph 5 of the Coal Mines Bonus Scheme.

(2) Every employee in a coal mine to which this Scheme applies, other than an excluded employee, shall be required to become a member of the Fund (hereinafter called the "initial member") from the beginning of the first period or quarter before the first of October 1948, in

respect of which he qualifies for a bonus under paragraph 4 or paragraph 5 of the Coal Mines Bonus Scheme:

Provided that an initial member, who has received before the first of October 1948, from his employer the full amount of his as well as the employer's contribution on his leaving employment in the coal mining industry, shall cease to be an initial member.

Explanation.—An employee whose basic wages exceed three hundred rupees per month from the date on which the Scheme is deemed to have come into force or from the date on which he begins work in a coal mine to which the Scheme applies cannot qualify for membership of the Fund so long as his basic wages continue to exceed three hundred rupees per month since he cannot qualify for a bonus under the Coal Mines Bonus Scheme. An employee whose basic wages exceed three hundred rupees per month subsequent to his qualifying for membership will be required to continue his membership and contributions ²[* * * * *] shown in Table I in paragraph 27 will continue to be payable.

26. Election for continuance of membership for certain other Provident Funds.—(1) Notwithstanding anything to the contrary contained in paragraph 25, a subscriber to a Provident Fund recognised under the Indian Income Tax Act, 1922 (XI of 1922), or to which the Provident Funds Act, 1925 (XIX of 1925), applies, may elect to continue as a subscriber thereto and if he does so, he shall not be required to or be entitled to become a member of the Fund.

(2) The election referred to in sub-paragraph (1) shall be made in Form C annexed hereto as soon as possible after he qualifies for membership of the Fund and shall be sent by the employer by registered post to the Commissioner so as to reach him within six months of the date on which the Scheme is notified or within six weeks of the end of the period or quarter in which he qualifies for membership of the Fund under paragraph 25, whichever is later.

27. Rates of contribution.—(1) Contributions shall be payable under this Scheme in respect of every member, whether an initial member or not, employed directly or indirectly in any coal mine to which this Scheme applies in respect of each month or week, as the case may be, for the whole or part of which he is so employed after the 31st of December 1948 and shall comprise contribution by the member and contribution by the employer at the rates specified in the following table:

Provided that an employer may cease to pay contribution in respect of a member if the member, not being a member whose wages exceed three hundred rupees per month, fails to earn a bonus in any coal mine for four successive quarters. If he does not pay the contribution as afore-said, the election shall continue to be effective only up to the

²The words "restricted to the maximum" omitted by Notification No. S. R. O. 608, d/- 23-4-51, pub. in Gazette of India, d/- 26-4-51, Pt. II—Sec. 3, p. 640.

end of the quarter immediately following the quarter in which he again qualifies for a bonus under paragraph 4 or paragraph 5 of the Coal Mines Bonus Scheme. In the meantime, such a member shall continue as a non-contributory member so long as he does not withdraw from membership under paragraph 63.

TABLE I
Monthly rated employees.

Basic wages for the month	Member's contribution	Employer's contribution	Total monthly contribution
	Rs. A. P.	Rs. A. P.	Rs. A. P.
Upto Rs. 10 — —	0 10 0	0 10 0	1 4 0
Over Rs. 10 and upto Rs. 16 — —	1 0 0	1 0 0	2 0 0
Over Rs. 16 and upto Rs. 24 — —	1 8 0	1 2 0	3 0 0
Over Rs. 24 and upto Rs. 36 — —	2 0 0	2 0 0	4 0 0
Over Rs. 36 and upto Rs. 54 — —	3 0 0	3 0 0	6 0 0
Over Rs. 54 and upto Rs. 72 — —	4 0 0	4 0 0	8 0 0
Over Rs. 72 and upto Rs. 88 — —	5 0 0	5 0 0	10 0 0
Over Rs. 88 and upto Rs. 104 — —	6 0 0	6 0 0	12 0 0
Over Rs. 104 and upto Rs. 120 — —	7 0 0	7 0 0	14 0 0
Over Rs. 120 and upto Rs. 136 — —	8 0 0	8 0 0	16 0 0
Over Rs. 136 and upto Rs. 150 — —	9 0 0	9 0 0	18 0 0
Over Rs. 150 and upto Rs. 175 — —	10 0 0	10 0 0	20 0 0
Over Rs. 175 and upto Rs. 200 — —	12 0 0	12 0 0	24 0 0
Over Rs. 200 ⁴ [and upto Rs. 240] — —	15 0 0	15 0 0	30 0 0
⁴ [Over Rs. 240 — —	1/16th of basic wages	1/16th of basic wages	2/16th of basic wages rounded off to the nearest rupee.]

TABLE II
Other employees.

Basic wages for the week	Member's contribution	Employer's contribution	Total monthly contribution
	Annas Nil	Annas Nil	Annas Nil
Upto Re. 1 — —	Nil	Nil	Nil
Over Re. 1 and upto Rs. 2 — —	2	2	4
Over Rs. 2 and upto Rs. 3 — —	3	3	6
Over Rs. 3 and upto Rs. 5 — —	4	4	8
Over Rs. 5 and upto Rs. 7 — —	6	6	12
Over Rs. 7 and upto Rs. 9 — —	8	8	16
Over Rs. 9 and upto Rs. 11 — —	10	10	20
Over Rs. 11 — —	12	12	24

⁴Inserted by Notification No. S. R. O. 608, d/ 23-4-51, *see* Gazette of India, d/- 22-4-51, Pt. II—Sec. 3, p. 642.

(2) If any dispute arises as to whether a particular item of emoluments is a part of basic wages or not, the dispute shall be referred to the Chief Labour Commissioner (Central), whose decision shall be final.

28. Payment of contributions.—The employer shall, in the first instance, pay both the contribution payable by himself (in this Scheme referred to as the employer's contribution) and also, on behalf of the member employed by him, the contribution payable by the member (in this Scheme referred to as the member's contribution).

29. Recovery of member's share of contribution.—(1) The amount of any member's contribution paid by the employer shall, notwithstanding the provisions of this Scheme or any law for the time being in force or any contract to the contrary, be recoverable by means of deduction from the wages of the member and not otherwise:

Provided that no such deduction may be made from any wages other than such as are paid in respect of the period or part of the period in respect of which the contribution is payable.

(2) Any sum deducted by an employer from wages under this Scheme shall be deemed to have been entrusted to him for the purpose of paying the contribution in respect of which it was deducted.

30. Employer's share not to be recovered from employee.—Notwithstanding any contract to the contrary the employer shall not be entitled to deduct the employer's contribution from the wages of a member or otherwise to recover it from him.

31. Payment of contributions in respect of initial members.—(1) In respect of all initial members of the Fund employed by an employer in West Bengal and Bihar during the period from the twelfth of May 1947 to the thirtieth of September 1948 and by an employer in Madhya Pradesh and Orissa during the period from the tenth of January 1948 to the thirtieth of September 1948 the employer shall be required to pay for credit as member's contribution to the Fund the amounts deducted by him under sub-paragraph (3) of paragraph 7 of the Coal Mines Bonus Scheme from the bonus payable, together with an equal amount on account of the employer's contribution and also an administrative charge equal to 5 per cent. of the total amount of the employer's and member's contributions.

(2) The payment referred to in sub-paragraph (1) shall be made by deposit in such Government Treasury or branch of the Imperial Bank of India and under such head of account and at such time as the Central Government may direct. The original treasury or bank chalan shall be sent to the Commissioner with a statement in Form B annexed hereto within one week of the date of deposit.

NOTE 1.—The employer's as well as the member's contribution shall be payable in respect of all initial members irrespective of whether or not the initial member is in the service of the employer at the time when the payment falls due.

NOTE 2.—If the total amount of the member's as well his employer's contribution has been refunded by the employer to any member at the time of his leaving the coal mining industry before the 1st of October, 1948 no contribu-

tion shall be payable to the Fund by the employer in respect of such member. In all other cases the employer's as well as the member's contribution shall be payable to the Fund.

NOTE 3.—For the sake of removal of doubt, it is hereby stated that no contribution under paragraph 27 or under this paragraph shall be payable in respect of the period from the 1st of October, 1948 to the thirty-first of December, 1948.

32. Lump-sum Contribution.—(1) Every employer shall be required to pay for credit to the "Reserve Account" of the Fund a consolidated contribution in respect of the period from the twelfth of May 1947 in the case of coal mines in West Bengal and Bihar and from the tenth of October 1947 in the case of coal mines in Madhya Pradesh and Orissa upto the thirty-first of December 1948 at such rate per ton of coal raised in the coal mine during the period concerned as the Central Government may specify in this behalf.

Provided that any sums deposited under paragraph 31 as the employers' contribution and the administrative charge shall be allowed as a deduction from the amount which would otherwise be required to be paid under this paragraph.

(2) The payment referred to in sub-paragraph (1) shall be made by deposit in such Government Treasury or branch of the Imperial Bank of India and under such head of account and at such time, as the Central Government may direct. The original Treasury or Bank chalan shall be sent to the Commissioner, with the statement in such form as he may specify, within one week of the date of the deposit.

33. Mode of payment of contribution—Affixing of stamps.—(1) Every contribution payable under this Scheme shall, except as otherwise provided therein, be paid by affixing a stamp in the space provided therefor in the Contribution Card maintained for each member in Form D or E annexed hereto.

(2) An employer who is liable to pay contributions in respect of any member employed by him, shall pay the contributions in the following manner:—

The employer shall before paying the member the wages in respect of any part of the period for which contributions are payable affix to the card of the member a stamp or stamps in payment of the contributions due in respect of that period:

Provided that it shall be the duty of the employer in any case—

(a) before the termination of the employment, except where the employment is terminated by the member without any notice or intimation to the employer, in which case the employer shall pay contributions within fourteen days of the termination of the employment,

(b) within six days after the expiration of the period of currency of the card,

(c) if the wages have become due but have not been paid, within forty-eight hours after receiving a request in that behalf from the member,

to affix to the card of the member a stamp or stamps in respect of the period ending at the date of such termination, expiration or request.

(3) In respect of the period during which the Contribution Card of the member has not been received by an employer from the last employer or the Commissioner, the employer shall prepare an emergency card in Form F annexed hereto and shall pay any contribution payable in respect of the member by affixing a stamp or stamps to such a card.

34. Stamps to be affixed by the employer only and stamps which have previously been affixed or are cancelled or defaced not to be affixed.—No person other than an employer shall affix to the card any stamp relating to this Scheme and no person shall affix to a card any stamp which has been cancelled or defaced or which has been previously affixed to a card to which stamps are required or authorised to be affixed for the purposes of this Scheme.

35. Cancellation of Stamps.—Save as otherwise expressly provided in this Scheme, an employer shall immediately after affixing any contribution stamp to a card cancel the stamp by stamping with a metallic die with black indelible ink across the face of the stamp the date upon which it is affixed and the employer's registered number.

36. Writing on Contribution Cards and Stamps.—(1) An employer may, if he thinks fit, inscribe upon the card of any member employed by him, but only in such manner as may easily be erased or removed, the number of that member upon the pay list or in the books of the employer.

(2) Save as otherwise expressly provided in this Scheme or as specially authorised by the Central Government, no writing or other mark shall be made at any time upon the card or stamps until after the surrender of the card to the Commissioner.

37. Declarations by employees and preparation of Contribution Cards.—Every person who is required to be a member or an initial member of the Fund shall be asked forthwith by his employer to furnish and shall on such demand furnish to him, for communication to the Commissioner, particulars concerning himself and his nominees in Form A annexed hereto. The particulars shall be entered in his own handwriting or if he is unable to write, shall be ascertained from him by the employer and entered in Form A. The employer shall obtain the signature and/or the thumb impression of the person and sign the certificate on the form at the place provided for the purpose and shall immediately thereafter prepare in respect of the person a Contribution Card in Form D or E as may be appropriate.

38. Submission of return of qualified employees.—Every employer shall send by registered post or through a messenger to the Commissioner within six weeks of the commencement of each quarter a return, in duplicate, in Form H annexed hereto of the employees qualifying to become members of the Fund during the preceding quarter and shall send with this return the declarations in Form A furnished by the persons qualifying.

39. Allotment of Account Number.—On receipt of the return required under paragraph 38 the Commissioner shall promptly allot an Account Number to each person who has qualified to become a member and shall communicate the Account Number to the employer.
 * [* * *]

40. Currency of Contribution Cards.—The Contribution Cards issued under this Scheme shall have the period of currency of one year:

Provided that this period of one year may commence and terminate at such different times for coal mines in different areas as may be decided by the Board from time to time:

Provided further that the cards issued in respect of the first contribution period may have a period of currency longer or shorter than the period of one year.

41. Renewal of Contribution Cards.—Every employer shall, on or before the expiration of the period of currency of the Contribution Card, prepare in respect of each member employed by him, a card in Form D or E as may be appropriate for the next period of currency.

42. Submission of the Contribution Cards to the Commissioner.—Every employer shall, within six weeks from the date of expiration of the period of currency of the Contribution Cards in respect of members employed by him, send the Contribution Cards together with the Emergency Cards, if any, issued in respect of the members to the Commissioner by registered post or through a messenger together with a statement in duplicate in Form I annexed hereto.

* [*****]

[44. Contribution Cards of Absentee Members—Submission to the Commissioner.—Where an employee leaves service in a coal mine without any notice to the employer, the employer shall keep with himself his contribution card until the end of the calendar month following that in which the employee left such service and if during such period the employee is not re-employed in the coal mine the employer after making the necessary entries therein shall send the card by registered post or through a messenger to the Commissioner accompanied by a statement in duplicate in Form J annexed hereto:

Provided that if during any such period the employee is employed in another coal mine and the employer receives a request from the employer in the other coal mine for the card of the member, the first mentioned employer shall, within ten days of the receipt of the request, send to the other employer by registered post the said card duly completed together with a copy of the statement in Form J in duplicate,

²Certain words regarding preparation and completion of Identity Cards omitted by Notification No. S.R.O. 1095, d/- 25-11-52, pub. in Gazette of India, d/- 29-11-52, Pt. II—Sec. 3, p. 1751.

³Paragraph 43 omitted by Notification No. S.R.O. 1212, d/- 8-7-52, see Gazette of India, d/- 12-7-52, Pt. II—Sec. 3, p. 1075.

⁴Paragraph 44 subs. for former paragraph 44 by *ibid.*, see *ibid.*

a copy of such statement being sent simultaneously also to the Commissioner.]

45. Declaration Form—Procedure to be followed by the employer.—When a person presents himself for work at a coal mine the employer shall ask him to state whether or not he is a member of the Fund and if he is, ask for his '[****] Account Number and the name and the particulars of the last employer and get his cards from the Commissioner or from the last employer. When the new employer receives the Contribution Cards, Emergency Cards, if any, '[*****] in respect of the members of the Fund who have joined him, from the last employer or the Commissioner, he shall sign and return one copy of the statement in Form J or K annexed hereto in token of receipt to the last employer or the Commissioner as the case may be.

46. Supply of Cards and Forms to employers.—The Commissioner shall supply to the employers free of charge on demand Declaration Forms, '[****] Contribution Cards, Emergency Cards, and other forms referred to in this Scheme:

Provided that if any employer desires to obtain any card or form in excess of what the Commissioner considers to be the requirement of the employer, the Commissioner may, if he thinks fit, supply such excess cards or forms and make such charge therefor as he considers necessary.

47. Custody of '[**] Contribution Cards.**—The employer shall '[*****] retain the '[****] Contribution Cards in respect of each member in his custody and shall take every possible precaution to guard them against loss or damage.

48. Inspection of Cards by members.—Any member who makes a request in this behalf to the employer shall be permitted to inspect his cards within a period of 72 hours of making such request provided that no member may make such a request more than once in any calendar month.

49. Production of Cards for inspection by the Commissioner or Inspector.—(1) Every employer shall, whenever the Commissioner or any other officer authorised by him in this behalf or an Inspector so requests, either in person or by notice, produce to the Commissioner, Officer or Inspector the cards of any member employed by him and any card then in his possession, and if so required by the Commissioner, Officer or Inspector shall deliver such card to the Commissioner, Officer or Inspector, who may, if he thinks fit, retain the card,

⁸The words "Identity Card" omitted by Notification No. S.R.O. 1212 d/- 8-7-52, see Gazette of India, d/- 12-7-52, Pt. II—Sec. 3, p. 1075.

⁹The words "and Identity Cards, if any" omitted by *ibid*, see *ibid*.

¹The words "Identity Cards" omitted by *ibid*, see *ibid*.

²The words "Identity and" omitted by *ibid*, see *ibid*.

³The words "subject to paragraph 43" omitted by Notification No. S.R.O. 1985, d/- 25-11-52, see Gazette of India, d/- 20-11-52, Pt. II—Sec. 3, p. 1751.

(2) The Commissioner, Officer or Inspector shall grant a receipt for every card retained by him.

50. Procedure for the purchase of Contribution Stamps by employers—rate of Administrative Charge.—The contribution stamps to be affixed to the Contribution Cards of the members under this Scheme shall be obtained by the employer from one of the Government Treasuries '[and post offices] specified in Schedule 'A' on indent in Form 'N' annexed hereto and the nominal value of the stamps indented for, together with an administrative charge of 5 per cent, of the nominal value of the stamps shall be paid into the treasury '[and post office] under the head of account to be specified by the Central Government in this behalf:

Provided that the rate of administrative charge shall be reviewed by the Central Government, in consultation with the Board, before the expiry of three years from the date of publication of this Scheme.

[50A. Remittance of Coal Mines Provident Money.—(1) All amounts deposited into Government Treasuries under paragraphs 31(2), 32(2) and 50 shall be remitted to the current Account No. 1 of the Coal Mines Provident Fund with the Imperial Bank of India, Dhanbad, in the first week of the month following the month of deposit under advice to the Government of India in the Ministry of Labour and the Coal Mines Provident Fund Commissioner. The remittance shall be made by the Treasury Officers by means of Reserve Bank Drafts at par marked "Intra-Provincial" favouring Imperial Bank of India, Dhanbad, for credit to the Current Account No. 1 of the Fund.

The account shall be operated on by such officers as may be specified by the Board of Trustees of the Coal Mines Provident Fund from time to time.

(2) The Coal Mines Provident Fund Commissioner shall submit demand statements to the Accountants General/Comptrollers by the 15th of the month in respect of the deposits made into the Government Treasuries during the month preceding the last month. Any difference between the amount remitted by the Treasury Officers and that actually due to the Fund shall be adjusted by the Accountant General/Comptroller concerned in a subsequent month.

(3) The amount of administrative charges collected by Post Offices shall be remitted by the Post Masters concerned in the first week of the month following the month of sale of stamps in cash or by means of Reserve Bank Drafts at par marked "Intra-Provincial" favouring Imperial Bank of India, Dhanbad, for credit to the Current Account No. 1 of the Fund. The Coal Mines Provident Fund Commissioner shall forward to the Deputy Accountant General, Posts and Telegraphs concerned a monthly statement by the 15th of each

*Inserted by Notification No. S.R.O. 1134, d/- 23-6-52, see Gazette of India, d/- 28-6-52, Pt II—Sec. 3, p. 999.

*Paragraph 50A inserted by *ibid.*, see *ibid.*, pp. 999–1000.

month showing the amounts realised by Post Offices within their circle of audit, on account of administrative charges on the sale of Coal Mines Provident Fund contribution stamps during the month preceding the last month, any difference between the amount already remitted by the Post Masters into the Current Account No. 1 of the Fund with the Imperial Bank of India, Dhanbad, and that due to the Fund being adjusted by the Post Masters concerned in due course on advice from the Deputy Accountant General, Posts and Telegraphs concerned.]

51. Stamps Suspense Account and Administration Account.—Out of the total amount realised under paragraph 50 an amount equal to the nominal value of the stamps sold shall be credited to an account to be named as the "Stamps Suspense Account" and the amount realised as the administrative charge shall be credited to an account to be called the "Administration Account".

52. Provident Fund Account.—When the Contribution Cards of members are received after the expiration of their period of currency from the employers the aggregate amount for which stamps have been affixed on the Contribution Cards shall be credited to an account to be called the "Provident Fund Account" by contra debit to the "Stamps Suspense Account".

53. Interest Suspense Account.—All interests, rents etc. realised and net profits or losses, if any, from the sale of investments, not including therein the transactions of the Administration Account, shall be credited, or as the case may be debited, to an account called the "Interest Suspense Account". Brokerage and commission on the purchase and sale of securities and other investments shall be included in the purchase or sale price, as the case may be, and not separately charged to the "Interest Suspense Account".

54. Investment of monies belonging to the Coal Mines Provident Fund.—(1) All monies belonging to the Coal Mines Provident Fund shall be either deposited in the Imperial Bank of India or in such other scheduled banks as may be approved by the Central Government from time to time, or invested in securities mentioned or referred to in clauses (a) to (d) of section 20 of the Indian Trusts Act, 1882 (II of 1882), subject to the condition that the securities in which investments are made are payable both in respect of capital and of interest in the Dominion (Union?) of India.

(2) The Board shall prepare a classified summary of the Assets of the Fund as on the 31st March in each year or on such other date as the Central Government may specify in Form O annexed hereto, and shall append it to the annual report required to be submitted to the Central Government under paragraph 68.

55. Disposal of the Coal Mines Provident Fund.—Subject to the provisions of the Act and of this Scheme, the Coal Mines Provident Fund, not including therein the Administration Account, shall not, except with the previous sanction of the Central Government, be expended for any purpose other than the payment of the sums standing

to the credit of individual members of the Fund or to their nominees or heirs or legal representatives in accordance with the provisions of this Scheme.

56. Expenses of administration.—(1) Subject to the provisions of the Act and of the Scheme all expenses of administration of the Coal Mines Provident Fund, including the fees and allowances of the trustees and of the members of the Committee and salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contribution to Provident Fund or other benefit funds for the officers and servants of the Fund, the cost of audit of the accounts, legal expenses and the cost of all stationery and forms required for the purpose of giving effect to this Scheme, shall be met from the Administration Account.

(2) All expenses incurred by the Central Government for and in connection with the establishment of the Fund, whether before or after the date of its establishment, shall be treated as a loan advanced by the Central Government to the Fund and such loan shall be repaid to the Central Government from the Administration Account.

57. Budget.—(1) The Committee shall place before the Board at a meeting to be held in January each year a budget showing separately the probable receipts from the sale of stamps and the levy of the administrative charge and the expenditure which it proposes to incur during the financial year commencing on the first of April next. The budget as approved by the Board shall be submitted for sanction to the Central Government before the 15th of February each year.

(2) The Central Government may sanction the budget as submitted or with such alterations therein as it considers desirable.

58. Form of Accounts.—The Board shall maintain the accounts of the Fund, including the "Administration Account", in such form and manner as may be specified by it with the previous approval of the Central Government.

59. Audit.—(1) The accounts of the Fund, including the "Administration Account", shall be audited in such manner as the Central Government may direct.

(2) The cost of the audit as determined by the Central Government shall be paid out of the "Administration Account".

60. Members' Accounts.—(1) An account shall be opened in the name of each member in which shall be credited—

- (i) his contributions,
- (ii) the contributions made by his employer, and
- (iii) interest, as provided by paragraph 61.

(2) All items of account shall be calculated to the nearest anna.

(3) On receipt of the Contribution and Emergency Cards, if any, of a member from his employer at the end of the period of currency of the Contribution Card, the Commissioner shall ascertain the nominal value of the contribution stamps affixed on the card or cards of the member and shall credit to the account of the member, as at the last

day of the period of currency, the employer's contribution and the member's contribution included in such nominal amount.

61. Interest.—(1) The Commissioner shall credit to the account of each member interest at such rate as may be determined by the Central Government in consultation with the Board in respect of the periods of currency of the cards expiring in each financial year.

(2) Interest for the period of currency of the card shall be credited with effect from the last day of the period on the opening balance at the credit of the member on the first day thereof:

Provided that, when the amount standing at the credit of the member has become payable, interest shall thereupon be credited under this sub-paragraph only for the period from the beginning of the current period upto the end of the month preceding the date of tender of payment, or upto the end of the sixth month after the month in which the amount has become payable, whichever is earlier.

⁶[Provided further that the rate of interest to be allowed on claims for refund for the broken period of currency of Cards shall be the rate fixed for the financial year in which "[the claim becomes payable]."]

(3) The aggregate amount of interest credited to the accounts of the members shall be debited to "Interest Suspense Account".

62. Nomination.—(1) Each member, or if he is a minor his guardian, shall make on his declaration in Form A, a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death before the amount standing to his credit has become payable, or where the amount has become payable, before payment has been made.

(2) A member, or if he is a minor his guardian, may in his nomination distribute the amount that may stand to his credit in the Fund amongst his nominees at his own discretion.

(3) If a member has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by such member in favour of a person not belonging to his family shall be invalid.

(4) If at the time of making a nomination the member has no family the nomination may be in favour of any person or persons but if the member subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the member shall make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made under sub-paragraph (1) may at any time be modified by a member, or if he is a minor by his guardian, after giving a written notice of his intention of doing so in Form M annexed hereto. If the nominee predeceases the member, the interest of the nominee shall revert to the member who may make a fresh nomination in respect of such interest.

⁶Inserted by Notification No. S.R.O. 158, d/- 18-1-52, see Gazette of India, d/- 26-1-52, Pt. II—Sec. 3, p. 129.

⁷Subs. for "the payment is actually made" by Notification No. S. R. O. 317, d/- 12-2-52, see Gazette of India, d/- 23-2-52, Pt. II—Sec. 3, p. 300.

(6) A nomination or its modification shall take effect to the extent that it is valid on the date on which it is received by the Commissioner.

63. Circumstances in which accumulations in the Fund are payable to a member.—(1) A member may withdraw the full amount standing to his credit in the Fund—

(a) on permanent retirement from service in the coal mining industry at any time after the attainment of the age of 50 years:

Provided that if at the time of withdrawal he has not completed 5 years as a member of the Fund the employer's contribution and interest thereon shall be forfeited to the Funds, "[*]" [unless he became a member of the Fund before the 1st October, 1948, in which case, no such forfeiture will be made and the full amount refunded, or]

(b) on retirement on account of permanent and total incapacity for work in the coalfields due to bodily or mental infirmity.

(2) The Board may permit a member, who has not attained the age of 50 years, to withdraw the amount standing to his credit in the Fund if—

(a) he has migrated from India for permanent settlement abroad, or

(b) he has not been employed in any coal mine to which this Scheme applies for a continuous period of not less than one year immediately preceding the date on which he makes an application for withdrawal, or

(c) in the case of a member employed on fixed term contract, he does not continue to work in the coalfields after the expiry of his contract:

Provided, however, that before the withdrawal is allowed (i) the full amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is less than 10 years, or (ii) half the amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is 10 years or more but less than 25 years.

(3) A member who withdraws under sub-paragraph (2) shall be required to join as a new member of the Fund if he obtains employment again in a coal mine and qualifies again for the membership of the Fund.

(4) All sums forfeited to the Fund under sub-paragraphs (1) and (2) shall be credited to the "Reserve Account" of the Fund.

64. Accumulations of a deceased member - to whom payable.—On the death of a member before the amount standing to his credit has become payable, or where the amount has become payable, before payment has been made—

(i) if a nomination made by a member in accordance with paragraph 62 subsists, the amount standing to his credit in the Fund or that part thereof to which the nomination relates, shall become payable to his nominee or nominees in accordance with such nomination;

*The word "or" omitted by Notification No. S. R. O. 608, dt- 23-4-51, *see* Gazette of India, dt- 28-4-51, Pt II—Sec. 3 p. 640

¹Inserted by *ibid*, *see ibid*

(ii) if no nomination subsists or if the nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or part thereof to which the nomination does not relate as the case may be, shall become payable to the members of his family in equal shares:

Provided that no share shall be payable to—

- (a) sons who have attained majority;
- (b) sons of a deceased son who have attained majority;
- (c) married daughters whose husbands are alive;
- (d) married daughters of a deceased son whose husbands are alive;

if there is any member of the family other than those specified in clauses (a), (b), (c) and (d):

Provided further that the widow or widows, and the child or children of a deceased son shall receive between them in equal parts only the share which that son would have received if he had survived the member and had not attained the age of majority at the time of the member's death.

NOTE.—For the purpose of this paragraph a member's posthumous child, if born alive, shall be treated in the same way as a surviving child born before the member's death.

63. *Deductions from the account of members dismissed for serious and wilful misconduct.*—(1) If a member is dismissed by an employer in a coal mine for serious and wilful misconduct, the employer may send intimation thereof to the Commissioner and the Commissioner shall have the power to forfeit the employer's contribution up to a maximum of the employer's contribution in the last two complete periods of currency of the Contribution Cards and those of the period of currency of the current Contribution Card.

(2) Before exercising the power of forfeiture conferred on him by sub-paragraph (1), the Commissioner shall call upon the member concerned, by notice in writing, to show cause why the forfeiture should not be made and shall decide the amount of forfeiture after taking into account any representation made by the member.

(3) Each forfeiture made under sub-paragraph (1) shall be brought to the notice of the Commissioner at a meeting to be held within three months of the date of such forfeiture and may be reviewed by the Committee either at its own instance or at the request of the employer or the member.

(4) Any amount forfeited from the individual account of a member under sub-paragraph (1) shall not be returned to the employer but shall be credited to the "Reserve Account" of the Fund.

66. *Payment of Provident Fund.*—(1) When the amount standing to the credit of a member, or a balance thereof after any deduction under paragraph 63 or 65 becomes payable, it shall be the duty of the Commissioner to make prompt payment as provided in this Scheme. He shall close the account of the member and give notice in writing to

the person to whom the amount is payable, specifying the amount and tendering payment thereof.

(2) If any portion of the amount, which has become payable, is in doubt or dispute, the Commissioner shall make prompt payment of that portion of the amount in regard to which there is no dispute or doubt, the balance being adjusted as soon after as may be.

(3) If the person to whom any amount is to be paid under this Scheme is a minor or lunatic for whose estate guardian under the Guardians and Wards Act, 1890 (VIII of 1890), or a manager under the Indian Lunacy Act, 1912 (IV of 1912), as the case may be, has been appointed, the payment shall be made to such guardian or manager, and if no such guardian or manager has been appointed, the payment shall be made to the person authorised by law to receive payment on behalf of the minor or lunatic.

(4) If it is brought to the notice of the Commissioner that a posthumous child is to be born to the deceased member, he shall retain the amount which will be due to the child in the event of its being born alive, and distribute the balance. If subsequently no child is born or the child is still-born, the amount retained shall be distributed in accordance with the provisions of paragraph 64.

(5) Any person who desires to claim payment under this paragraph shall send a written application to the Commissioner, who may, at the option of the person to whom payment is to be made, make the payment—

- (i) by postal money order at the cost of the payee, or
- (ii) by crossed cheque sent through post, or
- (iii) by crossed cheque or cash at the office of the Commissioner,

or

- (iv) by deposit in the payee's postal savings bank account, if any.

67. Annual statement of Members' Account.—(1) As soon as possible after the close of each period of currency of the Contribution Card the Commissioner shall send to each member through the employer of the coal mine in which he was last employed a statement of his account in the Fund showing the opening balance at the beginning of the period, the total amount of interest credited at the end of the period and the closing balance at the end of the period.

(2) Members should satisfy themselves as to the correctness of the annual statement and any error should be brought to the notice of the Commissioner within six months of the receipt of the statement.

68. Annual Report on the working of the Scheme.—The Board shall submit to the Central Government an annual report on the working of the Coal Mines Provident Fund Scheme.

69. Copies of Member's Accounts, Annual Report etc.—The Commissioner shall [* * * *] furnish copies of the member's account

*The words "issue duplicate Identity Cards and" omitted by Notification No. S. R. O. 1212, d/- 8-7-52, see Gazette of India d/ 12-7-52, Pt. II—Sec. 3, p. 1075.

and of the annual report of the Fund to any member on written application on payment of such fees and subject to such conditions as may be specified by the Board in this behalf.

¹[69A. *Obligation to produce documents before Inspector.*—Where an Inspector in exercise of the powers conferred on him under clause (b) of sub-section (2) of section 10 of the Act requires any person in charge of a coal mine or its office, to produce any document before him, that person shall produce such document before the Inspector.]

70. *Punishment for failure to pay contribution etc.*—If any person—

(a) fails to pay any contribution which he is liable to pay under this Scheme, or

(b) deducts or attempts to deduct from the wages or other remuneration of a member the whole or any part of the employer's contribution, or

(c) removes a stamp from a Contribution Card or uses or attempts to use a stamp which has already been cancelled or defaced or which has previously been affixed to a Contribution Card, or

(d) fails or refuses to submit any return, statement or other document required by this Scheme or submits a false return, statement or other document, or

(e) obstructs any Inspector or other official appointed under the Act or this Scheme in the discharge of his duties, or

(f) is guilty of any contravention of or non-compliance with any of the requirements of the Act or of this Scheme in respect of which no special penalty is provided,

he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.

SCHEDULE A

¹[(a)] List of Treasuries at which Coal Mines Provident Fund Contribution Stamps are stocked for issue to registered Coal Mines.

West Bengal

Assansol
Calcutta

Bihar

²[*****]

Dhanbad
Hazaribagh

Madhya Pradesh

Baikunthpur
Bilashpur
Chanda
Chhindwara

Orissa

Sambalpur
Talcher

¹Inserted by Notification No. S. R. O. 795, d/- 24-4-52, see Gazette of India, d/- 3-5-52, Pt. II—Sec. 3, p. 755.

²Former heading numbered as "(a)" by Notification No. S. R. O. 1134, d/- 23-6-52, see Gazette of India, d/- 28-6-52, Pt. II—Sec. 3, p. 1000.

³The word "Manbhum" omitted by *ibid*, see *ibid*.

²[(b) List of Post Offices at which Coal Mines Provident Fund Contribution Stamps are stocked for issue to registered Coal Mines.

Bihar
Dhanbad
Jharia.]

FORM A
COAL MINES PROVIDENT FUND

(Declaration by person employed in a Coal Mine)

1. Name _____
(in block capitals)
2. Sex _____
3. Caste or Surname _____
4. Religion _____
5. Occupation _____
6. Height _____
7. Father's Name _____
8. Husband's Name _____
(for married women)
9. Marital Status _____
(whether bachelor, spinster, married, widow or widower)
10. Date of birth: Day _____ Month _____ Year _____
11. Marks of Identification _____
12. Permanent Address _____
Village _____ Thana _____
District _____ Province or State _____

I declare that I have/my ward has not previously been a member of the Coal Mines Provident Fund and I hereby direct that the amount at my/my ward's credit in the Coal Mines Provident Fund at the time of my/my ward's death shall be paid to the following person(s) in the manner shown against their names:—

Name and address of the nominee or nominees	Nominee's relationship with the member	Age of nominee	Amount or share of accumulation in the Fund to be paid to the nominee.

Signature or left hand thumb impression
of the person employed or his guardian.

Date _____

Certified that above declaration has been signed by/by the guardian of _____ employed in my coal mine before me after he has read the entries/the entries have been read over to him by me,
Regd. No. of Coal Mine _____ Signature of Manager)
Dated _____ or other Officer)
Designation _____
Name and address }
of Coal Mine }

²Heading (b) with sub-heads inserted by *ibid.*, see *ibid.*

³The space together with words "Space for Photograph" omitted by Notification No. S. R. O. 1985, d/- 25-11-52, see Gazette of India, d/- 29-11-52, Pt. II—Sec. 3, p. 1751.

FORM C COAL MINES PROVIDENT FUND

(Election under paragraph 26 of the Coal Mines Provident Fund Scheme)

1. Name _____
(in block capitals)
2. Sex _____ 3. Religion _____
4. Father's Name _____
5. Husband's Name _____
(for married women only)
6. Date of birth _____
7. Permanent Address _____
8. Name of Provident Fund of which he is already a member _____

I declare that all the particulars stated above are true to the best of my knowledge and belief and I hereby* elect/do not elect to continue to be a member of the aforesaid Provident Fund.

Signature or left hand thumb
impression of person employed.

Certified that the above declaration has been signed by _____
employed in † _____
before me and that he is a member of _____

Provident Fund, a fund _____
*Recognised under the Indian Income Tax Act, 1922.

*to which the Provident Fund Act, 1925, applies.
Signature of Manager or }
other Officer of Coal Mine }
Registered No. of Coal Mine _____

*Score out the portion not applicable.

†Here give the name of Coal Mine in which employed.

FORM D COAL MINES PROVIDENT FUND

Contribution Card for employees other than monthly rated employees for the
period from _____ to _____

1. Account No. _____
2. Name (in block capitals) _____
3. Caste or Surname _____
4. Sex _____
5. Date of birth _____
6. Occupation _____
7. Father's name _____
8. Husband's name (for married women only) _____
9. Marital Status _____
10. Permanent Address—
Village _____ Thana _____
District _____ Province or State _____
11. Signature or left hand thumb
impression of member _____
12. Signature of person preparing the Card _____
13. Signature of Manager of Coal Mine _____
14. Registered No. of Coal Mine _____
15. Name and address of Coal Mine _____

Week 30	Week 31	Week 32	Week 33	Week 34	Week 35
Week 36	Week 37	Week 38	Week 39	Week 40	Week 41
Week 42	Week 43	Week 44	Stamps must not be bought except at a Govt. Treasury	Week 45	Week 46
Week 47	Week 48	Week 49	Week 50	Week 51	Week 52
SUMMARY OF STAMPS AFFIXED					
Number	Denomination of stamps affixed	Nominal value of stamps affixed	Signature of employer's clerk	Checked and found correct.	
	Rs. As.	Rs. As.			
				Signature of the clerk in the office of the Commissioner.	
Total	Nominal value of stamps				

FOLD CARD HERE DO NOT TEAR

WARNING				Week 3
Any person who removes a stamp from this card or makes use of a stamp removed from a card is liable to prosecution.				Week 2
Week 4	Week 5	Week 6	Week 7	Stamps must not be bought except at a Govt. Treasury
Week 8	Week 9	Week 10	Week 11	Week 12
Week 13	Week 14	Week 15	Week 16	Week 17
Week 18	Week 19	Week 20	Week 21	Week 22
NOTICE TO EMPLOYER				Week 23
Each stamp should be firmly affixed and the date of affixing and employer's registered No. at once stamped with metallic die across the face of the stamp.				Week 24
Week 25	Week 26	Week 27	Week 28	Week 29

11. Signature or left thumb
impression of member _____

FOLD CARD HERE DO NOT TEAR

Account No. _____

12. Signature of person
preparing the card _____
13. Signature of Manager
of Coal Mine _____
14. Registered No. of Coal Mine _____
15. Name and Address of Coal Mine _____

Particulars of employment

Registered No. of Coal Mine	Period of employment		Remarks	Initials of employer's clerk
	From	To		

WARNING

Any person who removes a stamp from this card
or makes use of a stamp removed from a card is
liable to prosecution.

			Month 1
Month 2	Month 3	Month 4	Month 5
Month 6	Month 7	Stamps must not be bought except at a Government treasury	Month 8
Month 9	Month 10	Month 11	Month 12

FOLD CARD HERE DO NOT TEAR

NOTICE TO EMPLOYER

Each stamp should be firmly affixed and the date of affixing and employer's registered No. at once stamped with metallic die across the face of stamp.

Summary of Stamps affixed

Number of stamps	Denomination of stamps		Nominal value of stamps		Signature of employer's clerk
	Rs.	As.	Rs.	As.	
					Checked and found correct
Total nominal value of stamps affixed					Clerk of the Office of the Commissioner

Particulars of Emergency Card issued

	Employer's Registered No.	Period for which issued		Remarks
		From	To	

FORM F

COAL MINES PROVIDENT FUND

Emergency Contribution Card for the period from _____ to _____

1. Account No. _____
2. Name (in block capitals) _____
3. Caste or Surname _____
4. Sex _____
5. Occupation _____
6. Father's Name _____
7. Husband's Name (for married women only) _____
8. Marital Status _____
9. Permanent Address _____
 Village _____ Thana _____
 District _____ Province or State _____
10. Signature or left thumb impression* of member _____
11. Signature of person preparing the card _____
12. Signature of Manager of Coal Mine _____
13. Registered No. of Coal Mine _____
14. Name and Address of Coal Mine _____
15. Space for Stamps—

16. Total nominal value of stamps affixed _____
 17. Signature of employer's clerk _____
 18. Checked and found correct _____

Clerk of the Office of the Commissioner.

[*****]

FORM H

COAL MINES PROVIDENT FUND

Return of persons employed who qualified for membership of the Coal Mines Provident Fund during the quarter _____ to _____

(To be sent to the Commissioner in duplicate in Form A.)

Name & Address of Coal Mine _____

Regd. No. of Coal Mine _____

Serial No.	Name of employee (in block capitals)	Father's name (or Husband's name in case of married women)	Category of employee's work	Sex	Account No. (not to be filled by employer)	Remarks

Dated _____

Signature of Manager
of Coal Mine.

FORM I

COAL MINES PROVIDENT FUND

Return of Contribution Cards sent to the Commissioner on completion of contribution year _____

19 _____ to _____ 19 _____
 (To be sent in duplicate)

*Form G omitted by Notification No. S. R. O. 1212, d/- 8-7-52, see Gazette of India, d/- 12-7-52, Pt. II—Sec. 3, p. 1075.

Name & Address of Coal Mine _____

Regd. No. of Coal Mine _____

Serial No.	Account No.	Name of member (in block capitals)	Number of Emergency Cards sent	Total contribution		Remarks	Space for use in Commissioner's office.
				Rs.	As.		
Total Amount of Contributions.							

Total number of Cards sent _____

Dated _____

Signature of Manager
of Coal Mine _____

FORM J

COAL MINES PROVIDENT FUND

Chalan of Contribution Cards *[******] sent to _____

Instructions.—This form should be prepared in triplicate or duplicate according as the cards are sent to the new employer or the Commissioner. In case the cards are sent to the new employer the extra copy should be sent to the Commissioner. One copy will be returned by the recipient duly acknowledged.

Sl. No.	Account No.	Name of member (in block capitals)	*[Contribution card sent (S) not sent (N)]	Emergency cards (Number sent) Nil. 1, 2, 3, etc.	REMARKS
1	2	3	4	5	6]

*[******]

No. of Contribution Cards _____

No. of Emergency Cards _____

Total No. of Cards sent _____

Signature of Manager
Name and address of the
Coal Mine _____
Regd. No. of Coal Mine _____
Dated _____

*"and Identity Cards" omitted by Notification No. 1085, d/- 25-11-52, see Gazette of India, d/- 29-11-52, Pt. II—Sec. 3, p. 1751.

⁰Original column 4 omitted and original columns 5, 6, and 7 renumbered as columns 4, 5, and 6 by *ibid.*, see *ibid.*

⁰⁰See fn. 2 at p. 137 *Infra.*

FORM K

COAL MINES PROVIDENT FUND

Chalan of Contribution Cards ²[*****] sent to _____

Instructions.—The form should be sent in duplicate. The _____ recipient will return one copy duly acknowledged.

Sl. No.	Account No.	Name of member (in block capitals) [***] ¹	Contribution card sent (S) not sent (N)	Emergency cards (Number sent) Nil. 1, 2, 3, etc.	REMARKS

²[*****]

No. of Contribution Cards _____ Coal Mines Provident Fund
 No. of Emergency Cards _____ Commissioner
 Total No. of Cards sent _____ Dated _____

FORM L

COAL MINES PROVIDENT FUND

(Requisition for Contribution Cards ²[*****])

The following persons, who have joined the Coal Mine, are understood to be members of the Coal Mines Provident Fund and to have been working in your coal mine/not to have worked in any coal mine during _____ or _____ It is requested that their Contribution Cards Emergency Contribution Cards, if any, ²[*****] may kindly be sent to us:—

Serial No.	Member's name (in block capitals)	Father's name (or Husband's name in case of married woman)	Account Number (as ² [*****] stated by the member)	Probable date of leaving ² [*****] the coal mine

²See f.n. 8 at p. 136 *Supra*.¹The column headed "Identity Cards sent(S) and not sent(N)" omitted by *ibid*, see *ibid*.²The words "No. of Identity Cards _____" omitted by *ibid*, see *ibid*.³The words "and Identity Cards" omitted by Notification No. 1985, d/- 25-11-52, see Gazette of India, d/- 29-11-52, Pt. II—Sec. 3, p. 1751.⁴The words "and the Identity Cards (in the case of those who have not already surrendered them as mentioned below)" omitted by *ibid*, see *ibid*.⁵The words "in the Identity Card or as" omitted by *ibid*, see *ibid*.⁶The column headed "Whether Identity Card surrendered (write 'Yes' or 'No')" omitted by *ibid*, see *ibid*.

Regd. No. of Coal Mine _____
 Dated _____

Signature of Manager
 or other Officer,
 Name and Address of
 Coal Mine.

To _____

FORM M

COAL MINES PROVIDENT FUND

I _____ hereby cancel the nomination made by me/my guardian on _____ as regards the disposal, in the event of my/my ward's death, of the amount standing to my/my ward's credit in the Coal Mines Provident Fund and direct that the amount at my/my ward's credit in Account No. _____ of the Coal Mines Provident Fund at the time of my/my ward's death shall be paid to the following person(s) in the manner shown against their names:—

Name & Address of the nominee or nominees	Nominee's relationship with the member	Age of Nominee	Amount or share of accumulation in the Fund to be paid to the nominee
1	2	3	4

Date _____

Signature or left hand
 thumb impression of member
 or his guardian.

Certified that the above declaration has been signed by (1) _____
 of _____ employed in _____ (2) the guardian
 of _____ employed in _____ before me.

Registered No. }
 of Coal Mine }

Signature of Manager,

FORM N

COAL MINES PROVIDENT FUND

(Indent for Purchase of Contribution Stamps)

To

The Treasury Officer,

Please supply for the use of the under-mentioned Coal Mine the following Contribution Stamps for which the bearer will pay Cash/by Cheque No. _____ dated _____ drawn on _____

Denomination of the Stamp	Number of stamps required	Nominal value of stamps	
<i>Monthly rated employees</i>		Rs.	As.
One Rupee & four annas — — —			
Two Rupees — — —			
Three " — — —			
Four " — — —			
Six " — — —			
Eight " — — —			
Ten " — — —			
Twelve " — — —			
Fourteen " — — —			
Sixteen " — — —			
Eighteen " — — —			
Twenty " — — —			
Twenty-four " — — —			
Thirty " — — —			
<i>Other employees</i>			
Four Annas — — —			
Six " — — —			
Eight " — — —			
Twelve " — — —			
One Rupee — — —			
One Rupee & Four Annas — — —			
" " " Eight " — — —			
Total Nominal value of stamps			
Add 5% Administrative charge			
Total amount payable for the purchase of stamps			

Signature of Manager of Coal Mine _____

Regd. No. of Coal Mine _____

Name and address of Coal Mine _____

FORM O
COAL MINES PROVIDENT FUND

Classified Summary of the assets of the Coal Mines Provident Fund
on the _____

Class of Assets	Book Value as per (a) below	Market Value as per (b) below	Remarks as per (c) below
	Rs.	Rs.	Rs.
1. Government of India Securities —			
2. Indian [State] Govt. Securities —			
3. Indian Municipal, Port and Improve- ment Trusts Securities including debentures — — —			
4. Debentures of Indian Railways —			
5. Guaranteed and Preference shares of Indian Railways — —			
6. Annuities of Indian Railways —			
7. Ordinary shares of Railways in India — — —			
8. Other debentures of concerns in India — — —			
9. Other guaranteed and Preference shares of concerns in India —			
10. Other Ordinary shares of concerns in India — — —			
11. Cash on deposit in Banks —			
12. Cash in hand and on Current account in Banks — — —			
13. Other assets — — — (to be specified)			

The summary shall show—

(a) the value for which credit is taken in the accounts for each of the above-mentioned classes of assets,

(b) the market value of such of the above-mentioned classes of assets as has been ascertained from published quotations,

(c) how the value of such of the above-mentioned classes of assets as has not been ascertained from published quotations has been arrived at.

THE COAL MINES PROVIDENT FUND OFFICE ESTABLISHMENT (CONTRIBUTORY PROVIDENT FUND) REGULATIONS, 1952¹.

1. *Short title.*—(1) These Regulations may be called the Coal Mines Provident Fund Office Establishment (Contributory Provident Fund) Regulations, 1952.

(2) They shall be deemed to have come into force with effect from the 1st day of April, 1951.

2. *Definitions.*—In these rules unless the context otherwise requires—

(i) "Commissioner" means the Coal Mines Provident Fund Commissioner.

(ii) "Emoluments" means pay, leave salary or subsistence grant, as defined in the Fundamental Rules and includes:—

(a) any wages paid by the Provident Fund Organisation to the employees not remunerated by fixed monthly pay; and

(b) any remuneration of the nature of pay received in respect of foreign service (i.e., service rendered with any other employer with the permission of the Coal Mines Provident Fund Commissioner).

(iii) "Employee" means any person holding an appointment, the emoluments of which are paid by the Coal Mines Provident Fund Organisation.

(iv) "Family" means:—

(a) in the case of male subscriber, the wife or wives and children of the subscriber and the widow or widows and children of deceased son of the subscriber;

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community to which the parties belong to be entitled to maintenance she shall thenceforth be deemed to be no longer a member of the subscriber's family in respect of matters to which these rules relate, unless the subscriber subsequently indicates by express notification in writing to the Commissioner that she shall continue to be so regarded; and

(b) in the case of a female subscriber, the husband and children of the subscriber and the widow or widows and children of a deceased son of subscriber;

Provided that if a subscriber by notification in writing to the Commissioner expresses her desire to exclude her husband from her family, the husband shall thenceforth be deemed to be no longer a member of the subscriber's family in respect of matters to which these

¹See Notification No. S. R. O. 768 d/- 23-4-52, pub. in Gazette of India d/- 3-5-52, Pt. II—Sec. 3, pp. 757-765.

rules relate, unless the subscriber subsequently cancels formally in writing her notification excluding him.

NOTE I.—“Children” means legitimate children.

NOTE II.—An adopted child shall be considered to be a child only when the Commissioner or when any doubt arises in the mind of the Commissioner, the Solicitor to the Government of India, is satisfied that under the personal law of the subscriber, adoption is legally recognised as conferring the status of a natural child.

(v) “Provident Fund” means the Coal Mines Provident Fund Office Establishment Contributory Provident Fund.

(vi) “Subscriber” means any employee of the Coal Mines Provident Fund Organisation admitted to the Provident Fund.

(vii) “Coal Mines Provident Fund Organisation” means the Organisation set up under the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (Act No. XLVI of 1948).

(viii) “Year” means a financial year beginning on the 1st day of April and ending on the 31st March next following.

3. *Constitution and management of the Provident Fund.*—The Provident Fund shall be administered and maintained by the Commissioner in rupees in India.

4. These rules shall apply to all non-pensionable employees holding a substantive appointment in the Coal Mines Provident Fund Organisation:

Provided that employees in temporary service may also be admitted to the Provident Fund with the written consent of the Commissioner if they have been employed or in the opinion of the Commissioner are likely to be employed for at least three years:

Provided further that persons appointed on probation to substantive appointments or appointed to officiate in an office which is vacant or the permanent incumbent of which does not draw any part of the pay or count service may, if they are confirmed without interruption, be allowed to join the Provident Fund with retrospective effect from the date of their joining the service. The monthly subscription of a subscriber so admitted under these provisions to the Provident Fund shall not be less than 10 per cent. of his pay till all arrears are paid up in full.

NOTE.—No employee who is in receipt of a pension from Government or for whom contribution is paid by the Coal Mines Provident Fund Organisation to any recognised Provident Fund or on account of pension shall be admitted to the Provident Fund.

5. *Nomination.*—(1) A subscriber shall, as soon as may be after joining the Fund send to the Commissioner a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the Fund, in the event of his death before that amount has become payable, or having become payable has not been paid:

Provided that if, at the time of making the nomination, the subscriber has a family, the nomination shall not be in favour of any person or persons other than the members of his family.

(2) If a subscriber nominates more than one person under sub-rule (1) he shall specify in the nomination the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may stand to his credit in the Fund at any time.

(3) Every nomination shall be in such one of the Forms set forth in the First Schedule as is appropriate in the circumstances.

(4) A subscriber may at any time cancel a nomination by sending a notice in writing to the Commissioner;

Provided that the subscriber shall along with such notice send a fresh nomination made in accordance with the provisions of this rule.

(5) A subscriber may provide in a nomination:—

(a) in respect of any specified nominee that in the event of his predeceasing the subscriber, the right conferred upon that nominee shall pass to such other person as may be specified in the nomination;

(b) that the nomination shall become invalid in the event of the happening of a contingency specified therein; provided that if at the time of making the nomination the subscriber has no family, he shall provide in the nomination that it shall become invalid in the event of his subsequently acquiring a family.

(6) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause (a) of sub-rule (5) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of clause (b) of sub-rule (5) or the proviso thereto, the subscriber shall send to the Commissioner a notice in writing cancelling the nomination together with a fresh nomination made in accordance with the provision of this rule.

(7) Every nomination made, and every notice of cancellation given by a subscriber shall, to the extent that it is valid, take effect on the date on which it is received by the Commissioner.

6. Subscriber's account.—An account shall be prepared in the name of each subscriber and maintained by the Commissioner in the form set forth in the Second Schedule appended to these rules.

7. Conditions and rate of subscription.—(1) A subscriber shall subscribe monthly to the Provident Fund when on duty or foreign service.

(2) A subscriber may, at his election, not subscribe during leave.

(3) A subscriber shall intimate his election not to subscribe during leave by a written communication to the Commissioner before he proceeds on leave.

(4) Failure to make due and timely intimation shall be deemed to constitute an election to subscribe.

(5) The election of a subscriber intimated under this sub-rule shall be final.

(6) A subscriber shall not subscribe to the Provident Fund when on extraordinary leave without pay or under suspension. He shall, however, on return from a period of such leave without pay or on reinstatement after a period passed under suspension, be allowed the

option to subscribe for that period, at the discretion of the Commissioner. The amount of subscription to be paid shall also be determined by the Commissioner the general principle to be observed being that the subscription should be calculated on half the emoluments drawn by the employee before he proceeded on leave without pay or was placed under suspension.

8. (1) The amount of subscription shall be fixed by the subscriber himself subject to the following conditions:—

(a) it shall be expressed in whole rupees:

Provided that if the emoluments of the subscriber do not exceed fifty rupees a month, the amount may be any multiple of a half rupee; and

(b) it may be any sum so expressed at a rate not less than 6½ per cent. (i.e. one anna in the rupee) of his monthly emoluments. The Board of Trustees may prescribe a maximum limit of subscription not exceeding 12½ per cent.

(2) For the purpose of sub-rule (1) the emoluments of a subscriber shall be—

(a) in the case of a subscriber who was on duty on the 31st March of the preceding year, the emoluments to which he was entitled on that date;

(b) in the case of a subscriber admitted to the Provident Fund on a subsequent date, the emoluments to which he was entitled on such subsequent date;

(c) in the case of a subscriber who was on deputation out of India on the said date or was on leave on the said date and continues to be on leave and has elected to subscribe during such leave, the emoluments to which he would have been entitled had he been on duty; and

(d) in the case of a subscriber who was on leave on the said date and elected not to subscribe during such leave or was under suspension on the said date, the emoluments to which he was entitled on the first day after his return to duty.

(3) The subscriber shall intimate the fixation of the amount of his monthly subscription for each year on the basis of his emoluments and rate permissible.

(4) The subscriber shall be permitted to increase the amount of subscription once at any time during the course of the year; there shall, however, be no corresponding increase in the contribution by the Coal Mines Provident Fund Organisation.

Provided that if a subscriber is on duty for a part of a month and on leave for the remainder of that month and if he has elected not to subscribe during leave the amount of the subscription shall be proportionate to the number of days spent on duty in the month.

9. *Realisation of subscription.*—(1) When the emoluments are drawn on the establishment pay bills, recovery of subscription to and

the principal and interest of advances granted from the Provident Fund shall be made by deduction from the pay bills.

(2) When the emoluments are drawn otherwise, the subscriber shall forward his dues monthly to the Commissioner.

10. Contribution by the Coal Mines Provident Fund Organisation—(1) The Commissioner shall make yearly a contribution to the account of each subscriber.

Provided that if a subscriber quits service or dies during the course of a year, proportionate contribution shall be credited to his account for the period between the close of the preceding year and the date of his retirement or death as the case may be.

(2) The rate of contribution made by the Commissioner shall be 6½ per cent. (1/16th) of the subscriber's emoluments drawn on duty or if he has been on leave and elected to subscribe during such leave the emoluments to which he would have been entitled had he been on duty.

(3) The amount of contribution shall be rounded off to the nearest whole rupee (eight annas counting as the next higher rupee).

11. Interest—(1) The Commissioner shall pay to the credit of the account of a subscriber interest at such rate as the Central Government may from time to time prescribe for the payment of interest on a subscriber's accumulations in the Provident Fund.

(2) In addition to any amount to be paid under rule 17, interest thereon upto the end of the month preceding that in which payment is made, or upto the end of the sixth month after the month in which such amount became payable, whichever of these periods be less, shall be payable to the persons to whom such amount is to be paid; provided that no interest shall be paid in respect of any period after the date which the Commissioner has intimated to that person (or his agent) as the date on which he is prepared to make payment in cash, or if he pays by cheque after the date on which the cheque in that person's favour is posted.

12. Advance—When the pecuniary circumstances of a subscriber are such that indulgence is absolutely necessary, a temporary recoverable advance may, at the discretion of the Commissioner, be granted to a subscriber out of the amount standing to his credit in the Provident Fund, on the conditions that—

(i) the advance is required to pay expenses on behalf of a subscriber or his family on any of the following:—

- (a) prolonged illness or medical attention,
- (b) overseas passage for reasons of health or education, and
- (c) marriage, funerals or ceremonies which by his religion it is incumbent upon the subscriber to perform.

(ii) the advance is expressed in whole rupees and shall not, except for special reasons, exceed three months' pay of the subscriber or 50 per cent. of the accumulation in the Fund, whichever is less and shall in no case exceed the amount of subscription and interest thereon standing to his credit in the Provident Fund.

(iii) a written request is made to the Commissioner showing reasons for the request:

Provided that if the reason is of a confidential nature it may be communicated to the Commissioner personally or confidentially.

13. Any advance shall be recovered from the subscriber in such number of equal monthly instalments as the Commissioner may direct but the number shall not be less than 12 unless the subscriber so elects or in any case more than 24, the amount of advance being raised or reduced, if necessary, to admit of the fixation of such instalments. The instalments shall be expressed in whole rupee and recovered from the subscriber's salary in the manner indicated in rule 9. The first instalment shall commence from the first payment of a full months' salary after the grant of advance.

14. After the principal of the advance has been fully repaid, interest thereon shall be recovered in one instalment at the rate of 5/12 per cent. of the principal for each month or broken portion of a month during the period between the drawal and complete repayment of the principal:

Provided that when the advance is distributed to be recovered in more than 18 instalments, the interest may be recovered in two instalments.

15. *Deductions.*—Subject to the conditions that no deduction may be made which reduces the credit by more than the amount of any contribution by the Commissioner with interest thereon credited under rules 10 and 11 before the amount standing to the credit of a subscriber in the Provident Fund is paid out of the Fund, the Commissioner may direct the deductions therefrom and payment to the Administrative Account of—

(a) any amount, if a subscriber has been dismissed from the service for grave mis-conduct;

Provided that, if the order of dismissal is subsequently cancelled, the amount so deducted shall, on his reinstatement in the service, be replaced at his credit in the Provident Fund;

(b) any amount if a subscriber resigns his employment under the Coal Mines Provident Fund Organisation within five years of commencement of service thereof otherwise than by reasons of superannuation or a declaration by competent medical authority that he is unfit for further service; and

(c) any amount due under a liability incurred by the subscriber to the Coal Mines Provident Fund Organisation.

16. *Final withdrawal of accumulations in the Provident Fund.*—The amount standing to the credit of a subscriber shall become payable at the time of quitting service or the death of the subscriber in the manner provided by these rules.

17. The total accumulations in the account of a subscriber less the amount of unrecovered advance and interest thereon, if any, shall be paid as follows:—

(i) to the subscriber on his ceasing to be an employee;

(ii) in the event of the death of the subscriber having made a nomination in accordance with these rules, to the nominee or nominees and in the event of such nominee or nominees pre-deceasing the subscriber, to the alternate nominee or nominees in the manner indicated in the declaration form; or

(iii) in the event of the death of the subscriber without having made a nomination in accordance with these rules or whose nominee or nominees or alternate nominee or nominees has or have not survived the subscriber, to the legal heirs of the subscriber on the production by him or them of probate or letters of administration evidencing the grant to him or them of the administration of the estate of the subscriber or a certificate granted under the Indian Succession Act, 1925, entitling the holder thereof to receive payment of such amount:

Provided that if the amount of such accumulations does not exceed rupees five thousands it may be paid to any person appearing to the Commissioner to be entitled to receive it.

FIRST SCHEDULE [See rule 5 (3)]

Forms of Nomination

I. *When the subscriber has a family and wishes to nominate one member thereof.*

I hereby nominate the person mentioned below, who is a member of my family as defined in rule 2 of the Coal Mines Provident Fund Office Establishment (Contributory Provident Fund) Regulations, 1952 to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable or having become payable, has not been paid—

Name and address of nominee.	Relationship with subscriber.	Age.	Contingencies on the happening of which the nomination shall become invalid.	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber.

Dated this _____ day of _____ 19 ____

at _____

Two witnesses to signature:—

1. _____

2. _____

Signature of subscriber _____

II. *When the subscriber has a family and wishes to nominate more than one member thereof.*

I hereby nominate the persons mentioned below, who are members of my family as defined in rule 2 of the Coal Mines Provident Fund Office Establishment (Contributory Provident Fund) Regulations, 1952, to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable or having become payable has not been paid and direct that

the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of nominees.	Relationship with subscriber.	Age.	*Amount or share of accumulations to be paid to each.	Contingencies on the happening of which the nomination shall become invalid.	Name and address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber.

Dated this _____ day of _____ 19____
at _____

Two witnesses to signature:—

1. _____
2. _____

Signature of subscriber _____

*NOTE.—This column should be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the Fund at any time.

III. *When the subscriber has no family and wishes to nominate one person.*

I, having no family as defined in rule 2 of the Coal Mines Provident Fund Office Establishment (Contributory Provident Fund) Regulations, 1952, hereby nominate the person mentioned below to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid:—

Name and address of nominee.	Relationship with subscriber.	Age.	**Contingencies on the happening of which the nomination shall become invalid.	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber.

Dated this _____ day of _____ 19____
at _____

Two witnesses to signature:—

1. _____
2. _____

Signature of subscriber _____

**Where a subscriber who has no family makes a nomination, he shall specify in this column that the nomination shall become invalid in the event of his subsequently acquiring a family.

IV. *When the subscriber has no family and wishes to nominate more than one person.*

I, having no family as defined in the rule 2 of the Coal Mines Provident Fund Office Establishment (Contributory Provident Fund) Regulations, 1952, hereby nominate the persons mentioned below to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of nominees.	Relationships with subscriber.	Age.	*Amount or share of accumulation to be paid to each.	**Contingencies on the happening of which the nomination shall become invalid.	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber.

Dated this _____ day of _____ 19 _____
at _____

Two witnesses to signature:—

1. _____
2. _____

Signature of subscriber _____

*NOTE.—This column should be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the Fund at any time.

**NOTE.—Where a subscriber who has no family makes a nomination, he shall specify in this column that the nomination shall become invalid in the event of his subsequently acquiring a family.

SECOND SCHEDULE

Provident Fund Account and Abstract Balance of each subscriber

Name of subscriber _____ Appointment or appointments held under the
C.M.P.F. Organisation _____ Corresponding date(s) of appointment _____
Account No. _____
Date of admission to the Provident Fund _____ Remarks or special provision,
if any _____

Pay on 31st March of preceding year Rs. — 10—	Subscriptions					Contribution by the C. M. P. F. Organisation		
	Subscription	Refunds of with- drawals	Total	With- drawals	Monthly balance on which interest is calculated	Subscriber's emoluments drawn on duty or his leave salary if he elects to subscribe during leave	With- drawals	Remarks
1	2	3	4	5	6	7	8	9
April	—	—	—	—	—	—	—	—
May	—	—	—	—	—	—	—	—
June	—	—	—	—	—	—	—	—
July	—	—	—	—	—	—	—	—
August	—	—	—	—	—	—	—	—
September	—	—	—	—	—	—	—	—
October	—	—	—	—	—	—	—	—
November	—	—	—	—	—	—	—	—
December	—	—	—	—	—	—	—	—
January	—	—	—	—	—	—	—	—
February	—	—	—	—	—	—	—	—
March	—	—	—	—	—	—	—	—
March (final)	—	—	—	—	—	—	—	—
March (supplement- ary)	—	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—	—

Balance from 19 —19	—	Contribution by the Coal Mines	
Deposits and Refunds as above	—	Provident Fund Organisation on	
Interest for 19 —19	—	Ra. @ —	—
		Balance from 19 —19	—
		Interest for 19 —19	—
TOTAL —	—	TOTAL —	—
Deduct—Withdrawals as above	—	Deduct—Withdrawals as above	—
Balance on 31st March 19	—	Balance on 31st March 19	—
Calculated by		Checked by	

THE COLLECTION OF STATISTICS ACT, 1953.

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1. Short title, extent and commencement.
2. Definitions.
3. Collection of statistics.
4. Appointment of statistics authority.
5. Power of statistics authority to call for information or returns.
6. Right of access to records or documents.
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8. Penalties.
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11. Cognizance of offences.
12. Power of Central Government to give directions.
13. Protection of action taken in good faith.
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15. Repeal.

THE COLLECTION OF STATISTICS ACT, 1953.

No. 32 of 1953.

[18th September, 1953]

An Act to facilitate the collection of statistics of certain kinds relating to industries, trade and commerce.

Be it enacted by Parliament as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Collection of Statistics Act, 1953.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means—

(i) the Central Government, in relation to the collection of statistics under a direction issued by it under section 3, and

(ii) the State Government, in relation to the collection of statistics under a direction issued by it under that section;

(b) "commercial concern" means a public limited company or a co-operative society or a firm or any other person or body of persons engaged in trade or commerce, and includes—

(i) a concern engaged in banking or insurance;

(ii) a financial corporation;

(iii) a concern engaged in shipping and navigation;

(iv) a concern engaged in the business of brokers dealing in shares, stocks and securities and commodities;

(v) a concern engaged in the business of advertising consultants;

(vi) a light railway;

(vii) a concern engaged in road transport service;

(viii) a concern engaged in air transport service;

(ix) a rubber, tea, coffee or cinchona plantation;

(x) a concern engaged in the business of forwarding and clearing agents;

(xi) any other concern which, in the opinion of the Central Government, is a commercial concern and is declared to be such by that Government by notification in the Official Gazette, but does not include an industrial concern;

(c) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (LXIII of 1948);

(d) "industrial concern" means a public limited company or a co-operative society or a firm or any other person or body of persons engaged in the manufacture, assembling, packing, preservation or processing of goods or in mining or in the generation or distribution of electricity or any other form of power;

(e) "owner" in relation to a commercial or an industrial concern means the person who, or the authority which, has the ultimate control over the affairs of the concern, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the concern;

(f) "prescribed" means prescribed by rules made under this Act or in any form laid down by such rules.

3. Collection of statistics.—The appropriate Government may, by notification in the Official Gazette, direct that statistics shall be collected relating to any of the following matters, namely:—

(a) any matter relating to any industry or class of industries;

(b) any matter relating to any commercial or industrial concern or class of commercial or industrial concerns, and in particular, any matter relating to factories;

(c) any of the following matters so far as they relate to welfare of labour and conditions of labour, namely:—

- (i) price of commodities;
- (ii) attendance;
- (iii) living conditions including housing, water supply and sanitation;
- (iv) indebtedness;
- (v) rents of dwelling houses;
- (vi) wages and other earnings;
- (vii) provident and other funds provided for labour;
- (viii) benefits and amenities provided for labour;
- (ix) hours of work;
- (x) employment and unemployment;
- (xi) industrial and labour disputes;
- (xii) labour turnover;
- (xiii) trade unions;

and thereupon the provisions of this Act shall apply in relation to those statistics:

Provided that—

(a) nothing contained in this section shall be deemed to authorise a State Government to issue any direction under this Act with respect to the collection of statistics relating to any matter falling under any of the entries specified in List I in the Seventh Schedule to the Constitution; or

(b) where the Central Government has issued any direction under this section for the collection of statistics relating to any matter, no State Government shall, except with the previous approval of the Central Government, issue any similar direction for so long as the collection of statistics by the Central Government remains to be completed; or

(c) where a State Government has issued a direction under this section for the collection of statistics relating to any matter, the Central Government shall not issue any similar direction for so long as the collection of statistics by the State Government remains to be completed, except in cases where statistics have to be collected with reference to two or more States.

4. *Appointment of statistics authority*.—The appropriate Government may appoint an officer to be the statistics authority for the purpose of collecting any statistics directed by it to be collected.

5. *Power of statistics authority to call for information or returns*.—(1) The statistics authority may serve or cause to be served on the owner of an industrial or commercial concern or on any other person a notice requiring him to furnish such information or returns as may be prescribed relating to any matter in respect to which statistics are to be collected.

(2) The form in which, and the person to whom, or the authorities to which, such information or returns should be furnished, the particulars which they should contain and the intervals within which such

information or returns should be furnished shall be such as may be prescribed.

(3) The notice referred to in sub-section (1) may be served by post.

6. *Right of access to records or documents.*—The statistics authority or any person authorised by him in writing in this behalf shall, for the purposes of the collection of any statistics under this Act, have access to any relevant record or document in the possession of any person required to furnish any information or return under this Act, and may enter at any reasonable time any premises where he believes such record or document to be and may inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information required to be furnished under this Act.

7. *Restriction on the publication of information and returns.*—(1) No information, no individual return and no part of an individual return with respect to any particular industrial or commercial concern, given for the purposes of this Act shall, without the previous consent in writing of the owner for the time being of the industrial or commercial concern in relation to which the information or return was given or made or his authorised agent, be published in such manner as would enable any particulars to be identified as referring to a particular concern.

(2) Except for the purposes of a prosecution under this Act or under the Indian Penal Code (Act XLV of 1860), no person who is not engaged in the collection of statistics under this Act shall be permitted to see any information or individual return referred to in sub-section (1).

8. *Penalties.*—If any person—

(a) required to furnish any information or return—

(i) wilfully refuses or without lawful excuse neglects to furnish such information or return as may be required under this Act; or

(ii) wilfully furnishes or causes to be furnished any information or return which he knows to be false; or

(iii) refuses to answer or wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act; or

(b) impedes the right of access to relevant records or documents or the right of entry conferred by section 6;

he shall for each such offence be punishable with fine which may extend to five hundred rupees and in the case of a continuing offence to a further fine which may extend to two hundred rupees for each day after the first during which the offence continues.

9. *Offences by companies.*—(1) If the person guilty of an offence under section 8 is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

10. Penalty for improper disclosure of information or returns.—If any person engaged in connection with the collection of statistics under this Act wilfully discloses any information or the contents of any return given or made under this Act otherwise than in the execution of his duties under this Act or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code (Act XLV of 1860), he shall be punishable for such offence with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

11. Cognizance of offences.—No prosecution for an offence under section 8 shall be instituted except by or with the sanction of the statistics authority and no prosecution for an offence under section 10 shall be instituted except by or with the consent of the appropriate Government.

12. Power of Central Government to give directions.—The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

13. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the appropriate Government, the statistics authority, or any other person acting under the authority of the appropriate Government or of the statistics authority in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or directions issued thereunder.

14. Power to make rules.—(1) The appropriate Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for the purpose of carrying out the purposes of this Act,

(2) Without prejudice to the generality of the foregoing power,

rules may be made under this section for all or any of the following matters, namely:—

(a) the form and manner in which the information and returns may be furnished, the particulars which they should contain, the intervals within which and the authority to which such information and returns may be furnished;

(b) the manner in which the right of access to documents and the right of entry conferred by section 6 may be exercised; and

(c) any other matter which is to be or may be prescribed under this Act.

(3) All rules made under this section shall be laid, as soon as may be, before Parliament or, as the case may be, before the appropriate State Legislature.

15. Repeal.—The Industrial Statistics Act, 1942 (XIX of 1942), and the Hyderabad Collection of Statistics Act (No. 17 of 1357 Fasli) are hereby repealed.

THE COTTON GINNING AND PRESSING FACTORIES ACT, 1925. CONTENTS.

SECTIONS.	SECTIONS.
1. Short title, extent and commencement.	10. Liability of officers of a company.
2. Definitions.	11. Cognizance of offences.
3. Maintenance of registers.	12. Power of Central Government to make rules.
4. Marking of bales.	13. Power of the State Government to make rules.
5. Returns.	14. Power to reject unmarked bales in fulfilment of contracts.
5A. Returns from cotton ginning factories.	15. Protection of acts done under the Act.
6. Scales and weights.	
7. Liability of lessee as owner.	
8. Liability on transfer of ownership.	
9. Structural requirements for factories.	

THE COTTON GINNING AND PRESSING FACTORIES ACT, 1925.

ACT NO. XII OF 1925¹.

[18th March, 1925.]

An Act to provide for the better regulation of cotton ginning and pressing factories.

WHEREAS it is expedient to provide for the better regulation of cotton ginning and pressing factories;

It is hereby enacted as follows:—

¹For Statement of Objects and Reasons, see Gazette of India, 1924, Part V, p. 115.

This Act has been repealed in its application to Uttar Pradesh by the Uttar Pradesh Cotton Ginning and Pressing Factories Act 9 of 1949.

1. Short title, extent and commencement.—(1) This Act may be called the Cotton Ginning and Pressing Factories Act, 1925,

²[(2) It extends to the whole of India ³[except the State of Jammu and Kashmir].]

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "bale" means any pressed package of cotton of whatever size or density;

(b) "cotton" means ginned or unginned cotton, or cotton waste;

(c) "cotton ginning factory" means any place where any cotton is ginned or where cotton fibre is separated from cotton seed by any process whatever involving the use of steam, water or other mechanical power or of electrical power;

(d) "cotton pressing factory" means any factory as defined in the Indian Factories Act, 1911⁴, in which cotton is pressed into bales;

(e) "cotton waste" means droppings, strippings, fly and other waste products of a cotton mill or of a cotton ginning factory or of a cotton pressing factory, but does not include yarn waste;

(f) "Indian Central Cotton Committee" means the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923 (XIV of 1923), and includes any sub-committee appointed by it to perform any function of the Indian Central Cotton Committee under this Act;

(g) "occupier" includes a managing agent or other person authorised to represent the occupier; and

(h) "prescribed" means prescribed by or under rules made under this Act.

Bombay Amendment.—(a) The following amendments were made in sec. 2 by the Cotton Ginning and Pressing Factories (Bom. Amendment) Act 4 of 1936, namely:—

(1) before clause (a) read the following new clause, namely:—

"(aa) 'admixture of cotton' means a prescribed mixture of different varieties of cotton";

(2) after cl. (f) read the following new clause, namely:—

"(ff) 'licence' means a licence granted under section 2A;" ; and

(3) after cl. (h) read the following new clause, namely:—

"(i) 'Season' means such period as may from time to time be prescribed."

(b) After sec. 2 the following new section was inserted by *ibid*, namely:—

"2A. Licence for working cotton ginning factory or cotton pressing factory.—(1) No cotton ginning factory or cotton pressing factory shall be worked without a licence granted to the owner thereof by such authority, in such form, subject to such conditions and on payment of such fee as may be prescribed.

²Subs. for former sub-sec. (2) by I. A. O., 1930.

³Subs. for "except Part B States" by the Part B States (Laws) Act 3 of 1951.

⁴See now the Factories Act 63 of 1948.

(2) (a) A licence for which the prescribed fee has been paid shall be liable to be refused only on the ground that the owner or person in charge of a cotton ginning or cotton pressing factory in respect of which a licence is applied for has been convicted of an offence punishable under this Act.

(b) A licence shall be liable to be suspended, withdrawn or cancelled only on the ground that the owner or person in charge of a cotton ginning or cotton pressing factory in respect of which a licence was granted has been convicted of an offence punishable under this Act:

Provided that no licence shall be suspended, withdrawn or cancelled under this clause until after the expiration of the season in which the said owner or person has been so convicted.

(3) If any person works a cotton ginning or cotton pressing factory in respect of which a licence has not been granted or has been suspended, withdrawn or cancelled, such person shall be punishable—

(a) on a first conviction, with fine which may extend to five hundred rupees and, if the offence has continued for more than one day, with an additional fine which may extend to one hundred rupees for every day subsequent to the first day during which the offence has continued; and

(b) on every subsequent conviction, with fine which may extend to fifteen hundred rupees and, if the offence has continued for more than one day, with an additional fine which may extend to two hundred rupees for every day subsequent to the first day during which the offence has continued."

Madras Amendment.—(a) The following amendments were made in sec. 2 by the Cotton Ginning and Pressing Factories (Mad. Amendment) Act 25 of 1948, namely:—

(1) clause (a) shall be re-lettered as cl. (a-i) and before the clause as so re-lettered read the following new clause, namely:—

"(a) 'admixed cotton' means a mixture of different varieties of cotton;";

(2) in cl. (b), omit "or cotton waste";

(3) after cl. (e) read the following new clause, namely:—

"(e-i) 'foreign substance' means a substance other than cotton lint, and includes cotton waste, but does not include cotton leaf or cotton seed;";

(4) after cl. (f) read the following new clause, namely:—

"(f-i) 'licence' means a licence granted under section 2A, sub-section (1); and

(5) after cl. (g) read the following new clause, namely:—

"(g-i) 'owner' includes any person authorised to represent the owner;".

(b) After sec. 2 the following new section was inserted by *ibid.* namely:—

"2A. *Licence for working cotton ginning or pressing factory.*—(1) No cotton ginning or pressing factory shall be worked without a licence granted to the owner thereof, by such authority, in such form, subject to such conditions, and on payment of such fee, as may be prescribed.

(2) A licence for which the prescribed fee has been paid shall be refused only on the ground that the owner or person in charge of the factory has been convicted of an offence punishable under this Act.

(3) A licence shall be suspended or cancelled only on the ground that the owner or person in charge of the factory has been convicted of an offence punishable under this Act.

(4) Whoever works a cotton ginning or pressing factory—

(a) in respect of which no licence has been granted, or the licence granted in respect of which has been suspended or cancelled, or

(b) in contravention of any of the conditions of the licence granted in respect thereof,

shall be punishable with fine which may extend to five hundred rupees, and in the case of a second or subsequent conviction, with fine which may extend to one thousand five hundred rupees."

3. *Maintenance of registers.*—(1) The owner of every cotton ginning factory shall cause to be maintained at the factory in such form,

if any, as may be prescribed, a ginning register containing a record of all cotton ginned in the factory and of the names of the persons for whom and the dates on which the cotton has been ginned and of the amount ginned for each person.

(2) The owner of every cotton pressing factory shall cause to be maintained at the factory in such form, if any, as may be prescribed, a press register containing a daily record of the number of bales pressed in the factory, the serial number of each bale, and the name of the person for whom it has been pressed.

(3) The owner or the person in charge of a cotton ginning or cotton pressing factory shall be bound to produce any ginning register or press register maintained under this section when required to do so by any person appointed by the ¹[State Government] in this behalf, and the owner or person in charge of any cotton pressing factory shall be bound to furnish to the Indian Central Cotton Committee, if so required by it in writing, a copy, certified as correct by the owner or person in charge of the factory, of the entry in any press register maintained at the factory relating to any specified bale.

(4) No register required to be maintained by this section shall be destroyed until after the expiration of three years from the date of the last entry therein.

(5) If—

(a) in any factory any register required by this section to be maintained is not maintained or is maintained in any form other than the form, if any, prescribed for the purpose, or

(b) any entry in any such register is proved to be false in any material particular, or

(c) any such register is destroyed before the expiration of the period referred to in sub-section (4),

the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

(6) If the owner or the person in charge of any factory fails to produce any register, or to furnish a certified copy of any entry, when required to do so under sub-section (3), or furnishes a certified copy of an entry knowing or having reason to believe such copy to be false, he shall be punished with fine which may extend to fifty rupees or, if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

Bombay Amendment.—(a) In sub-sec. (2), sec. 3, the word "and" was omitted and the following words were added at the end by Bom. Act 4 of 1936:—

"and the prescribed particulars as supplied by such person of the cotton ginning factory where it has been ginned."

(b) In sub-secs. (5) and (6) for the words "shall be punished" the words "shall, on conviction, be punishable" were substituted by *ibid.*

(c) After sec. 3 the following new sections were inserted by *ibid.*, namely:—

¹Subs. for "Provincial Government" by I. A. O., 1950.

"3A. *Prohibition against watering, etc., of cotton.*—(1) The ²[State Government] may by notification in the Official Gazette declare that in any area specified in such notification and to which this Act has been extended, no cotton which is ginned or pressed in a cotton ginning or cotton pressing factory shall contain any admixture of cotton.

(2) Any owner of a cotton ginning or cotton pressing factory or any person in charge of such factory—

(a) who knowing or having reason to believe that any cotton is watered or contains seed in excess of the prescribed proportion or contains any foreign substance, gins or presses or allows such cotton to be ginned or pressed in such factory, or

(b) who in any area specified in the notification under sub-section (1) gins or presses or allows to be ginned or pressed any cotton which he knows or has reason to believe to contain an admixture of cotton, shall, on conviction, be punishable with fine which may extend to five thousand rupees.

(3) Any owner of cotton who knowingly waters any cotton which is ginned and which is being, or is intended to be, pressed in a cotton pressing factory, or mixes seed or foreign substance with such cotton, or in any area specified in sub-section (1) makes any admixture of cotton, or abets or knowingly allows or connives at any such watering, mixing or admixture of cotton, shall, on conviction, be punishable with fine which may extend to five thousand rupees.

Explanation.—For the purposes of this section, cotton shall not be deemed to be watered, unless such cotton contains moisture in excess of the normal quantity. The normal quantity of moisture in any given quantity of cotton is the amount of moisture that such cotton is reasonably expected to have, regard being had to the place or places at or to which, and the time or times of the year in which, such cotton has been picked, collected, stored, conveyed, left, ginned or pressed. A certificate given by the prescribed authority as to the normal quantity of moisture that a given quantity of such cotton should have and the quantity of moisture that it possesses shall be evidence of such matters, until the contrary is proved; and if the latter quantity exceeds the former it shall be evidence, until the contrary is proved, that the cotton is watered.

"3AA. *Penalty for making any cotton wet.*—Any owner of cotton who knowingly makes or causes to be made any cotton which is ginned and which is being or is intended to be pressed in a cotton pressing factory, wet, or mixes or causes to be mixed seed, foreign substance or cotton waste with such cotton, or in any area specified in sub-section (1) of section 3A makes any admixture of cotton, or abets or knowingly allows or connives at any such act shall, on conviction, be punishable with fine which may extend to five thousand rupees.]

3B. *Examination of cotton, packages or bales.*—(1) The ²[State Government] or any gazetted officer authorised by it in this behalf may on its or his own motion or on receipt of a complaint that there has been a contravention of the provisions of section 3A in respect of any cotton, package or of any bale and in the case of a complaint, on payment of the prescribed fee by the complainant, cause such cotton or the contents of such package or bale to be examined by the prescribed person or body.

(2) A certificate given by such person after examination of the contents of any bale under sub-section (1) shall be admissible in evidence and be presumptive proof of the facts mentioned therein until the contrary is proved.

3C. *Entry and inspection.*—(1) The ²[State Government] may authorise any gazetted officer to enter into and inspect, at any reasonable time, any cotton ginning or cotton pressing factory for the purpose of ascertaining whether there is any contravention therein of any of the provisions of this Act or of any rule made thereunder or of any of the conditions subject to which a licence has

²Subs. for "Provincial Government" by I. A. O., 1950.

¹Inserted by Bom. Act XX of 1938.

been granted in respect of such factory and to seize all things in respect of which an offence punishable under this Act appears to have been committed.

(2) The owner or the person in charge of every cotton ginning or cotton pressing factory shall give every reasonable assistance to the inspecting officer in the performance of his duties under sub-section (1).

(3) The owner or the person in charge of such factory shall, in every instance, be permitted to attend during the inspection and the things seized during such inspection shall be sealed in the prescribed manner."

Madras Amendment.—After sec. 3 the following new sections were inserted by Mad. Act 25 of 1948, namely:—

"3A. *Admixed cotton not to be ginned or pressed in notified areas.*—(1) The [State Government] may, by notification in the Fort St. George Gazette, direct that no admixed cotton shall be ginned or pressed in a cotton ginning or pressing factory situated in any specified area.

(2) Any owner or person in charge of a factory who, in contravention of a notification issued under sub-section (1), gins or presses, or allows to be ginned or pressed, in such factory any cotton which he knows or has reason to believe to be admixed cotton, shall be punishable with fine which may extend to one thousand five hundred rupees.

3B. *Watered or impure cotton not to be ginned or pressed.*—Any owner or person in charge of a cotton ginning or pressing factory who, knowingly or having reason to believe that any cotton is watered, or contains cotton leaf or cotton seed in excess of the prescribed proportion, or contains any foreign substance, gins or presses, or allows to be ginned or pressed, such cotton in the factory shall be punishable with fine which may extend to one thousand five hundred rupees.

3C. *Owner not to mix different varieties of cotton or to water, etc., cotton.*—Any owner of cotton who knowingly—

(a) mixes one variety with another variety of cotton, in any area specified in a notification issued under section 3A, sub-section (1); or

(b) waters any ginned cotton which is being, or is intended to be, pressed in a cotton pressing factory; or

(c) mixes with ginned cotton any foreign substance, cotton leaf or cotton seed; or

(d) abets, or allows the commission of, any of the acts specified in the foregoing clauses,

shall be punishable with fine which may extend to one thousand five hundred rupees.

3D. *Presumptions in certain cases.*—(1) (a) For the purposes of sections 3B and 3C, cotton shall not be deemed to be watered unless it contains moisture in excess of the normal quantity.

(b) The normal quantity of moisture in any given quantity of cotton is the amount of moisture which such cotton may reasonably be expected to contain, regard being had to the variety of the cotton, and the place or places at or to which and the time or times of the year in which, such cotton was picked, collected, stored, conveyed, left, ginned or pressed.

(c) A certificate given by the prescribed authority as to the normal quantity of moisture in a given quantity of cotton, and the quantity of moisture which it actually contains, shall be evidence of such matters, and shall, until the contrary is proved, be presumed, to be correct; and if the latter quantity as specified in the certificate exceeds the former, it shall be presumed, until the contrary is proved, that the cotton has been watered.

(2) (a) For the purposes of sections 3B and 3C, no variety of cotton shall be deemed to be mixed with cotton leaf or cotton seed unless such cotton contains cotton leaf or seed in excess of the quantity prescribed for such variety of cotton.

(b) A certificate given by the prescribed authority as to the quantity of cotton leaf or seed which a given quantity of any cotton actually contains shall

⁶Subs. for "Provincial Government" by I. A. O., 1950.

be evidence thereof and shall, until the contrary is proved, be presumed to be correct; and if the quantity specified in the certificate exceeds the limit prescribed under clause (a) for cotton of that variety, it shall be presumed, until the contrary is proved, that the cotton has been mixed with cotton leaf or seed in excess of the limit so prescribed.

3E. *Examination of cotton packages or bales*.—(1) The ²[State Government] or any officer authorised by them in this behalf may—

(a) suo motu, if such Government or officer has reason to believe that there has been a contravention of the provisions of section 3A, 3B or 3C in respect of any cotton or package or bale of cotton, or

(b) on receipt of a complaint from any person that there has been such a contravention in respect of any cotton or package or bale of cotton and on payment of the prescribed fee by the complainant,

cause such cotton or the contents of such package or bale to be examined by the prescribed authority.

(2) A certificate given by such authority in respect of any such cotton or the contents of any such package or bale, shall be evidence of the facts stated therein and shall, until the contrary is proved, be presumed to be correct.

3F. *Entry and inspection*.—(1) The ²[State Government] may authorise any officer to enter and inspect, at any reasonable time, any cotton ginning or pressing factory for the purpose of ascertaining whether there is any contravention therein of any of the provisions of this Act, or of any rule made thereunder, or of any of the conditions subject to which a licence has been granted in respect of such factory, and to seize and remove all things in respect of which an offence punishable under this Act appears to have been committed.

(2) The owner or person in charge of the factory shall give every reasonable assistance to the inspecting officer in the performance of his duties under sub-section (1).

(3) The owner or person in charge of the factory shall be permitted to be present during the inspection; and the thing seized during such inspection shall be sealed in the prescribed manner."

4. *Marking of bales*.—(1) The owner of every cotton pressing factory shall cause every bale pressed in the factory to be marked in such manner as may be prescribed, before it is removed from the press-house, with a serial number and with the mark prescribed for the factory.

(2) If any bale is removed from the press-house of any cotton pressing factory without having been marked as required by sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees.

Bombay Amendment.—In sub-sec. (2), sec. 4, for the words "shall be punished" the words "shall, on conviction, be punishable" were substituted by Bom. Act 4 of 1936.

5. *Returns*.—(1) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form as may be prescribed, weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of that week, and the approximate average net weight of the bales pressed in that week.

(2) The ²[State Government] shall compile from the weekly returns, and shall publish in such manner as it thinks fit, a statement

²Sels. for "Provincial Government" by I. A. O., 1950.

showing the total number of bales pressed in the "[State]" during the week and from the commencement of the season to the end of the week, to which the returns relate:

Provided that the number of bales pressed in any individual factory shall not be published.

(3) If default is made in submitting any return as required by sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees.

(4) Where the owner of a cotton pressing factory has notified to the prescribed authority that the work of pressing bales in that factory has been suspended, it shall not be necessary for the owner to submit returns under sub-section (1) until such work has been resumed.

Explanation.—In this section "season" means the period notified in this behalf by the "[State Government]" in the Official Gazette.

Bombay Amendment.—For sec. 5 the following new section was substituted by Bom. Act 4 of 1936, namely:—

"5. *Returns.*—(1) The owner of every cotton ginning factory shall submit to the prescribed authority, within such time and in such form, as may be prescribed, monthly returns showing the quantity of cotton ginned in the factory during the preceding month and from the commencement of the season to the end of that month.

(2) The "[State Government]" shall compile from the monthly returns submitted under sub-section (1), and shall publish in such manner as the Central Government may direct, a statement showing the total quantity of cotton ginned in the "[State]" during the month and from the commencement of the season to the end of the month to which the returns relate;

Provided that the quantity of cotton ginned in an individual factory shall not be published.

(3) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form, as may be prescribed, weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of that week, and the approximate average net weight of the bales pressed in that week.

(4) The "[State Government]" shall compile from the weekly returns submitted under sub-section (3), and shall publish in such manner as the Central Government may direct, a statement showing the total number of bales pressed in the "[State]" during the week and from the commencement of the season to the end of the week to which the returns relate;

Provided that the number of bales pressed in any individual factory shall not be published.

(5) If default is made in submitting any return as required by sub-section (1), or sub-section (3), the owner of the factory shall, on conviction, be punishable with fine which may extend to fifty rupees.

(6) Where the owner of a cotton ginning or cotton pressing factory has notified to the prescribed authority that the work of ginning cotton or pressing bales in that factory has been suspended, it shall not be necessary for the owner to submit returns under sub-section (1) or sub-section (3) until such work has been resumed."

5A. Returns from cotton ginning factories.—(1) This section shall be in force in "[Part C States]" only; but the "[State Government]"

¹Subs. for "Provincial Government" by I. A. O., 1950.

²Subs. for "Province" by I. A. O., 1950.

³Subs. for "Chief Commissioners' Provinces" by I. A. O., 1950.

of any other ¹[State] may, by ²notification in the official Gazette, bring this section into force in the [State]³.

(2) The owner of every cotton ginning factory shall submit to the prescribed authority, within such time and in such form as may be prescribed, weekly returns showing the quantity of cotton ginned in the factory during the preceding week and from the commencement of the season to the end of that week.

(3) The ⁴[State Government] shall compile from the weekly returns so submitted, and shall publish in such manner as it thinks fit, a statement showing the total quantity of cotton ginned in the ⁵[State] during the week and from the commencement of the season to the end of the week, to which the returns relate:

Provided that the quantity of cotton ginned in any individual factory shall not be published.

(4) If default is made in submitting any return as required by sub-section (2), the owner of the factory shall be punished with fine which may extend to fifty rupees.

(5) The provisions of sub-section (4) of section 5 apply to cotton ginning factories and the returns referred to in sub-section (2) of this section as they apply to cotton pressing factories and the returns referred to in sub-section (1) of section 5, and "season" in this section means the season as notified for the purposes of section 5.

16. Scales and weights.—(1) No scales or weights shall be used in any cotton ginning or cotton pressing factory other than the scales or weights, if any, prescribed by the Central Government as standard for the district in which the factory is situated.

(2) If in any factory any scale or weight is used in contravention of the provisions of sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has been previously convicted of any offence under this sub-section, to five hundred rupees.

Bombay Amendment.—In sub-sec. (1), sec. 6, after the words "other than" the words and figures "the standard weights and measures, weighing and measuring instruments authorised under the Bombay Weights and Measures Act, 1932, in districts or areas in which Parts II, III, V and VI of that Act are in force or elsewhere other than", were inserted and in sub-sec. (2) for the words "shall be punished" the words "shall, on conviction, be punishable" were substituted, by Bom. Act 4 of 1936.

Madras Amendment.—For sec. 6 the following new section was substituted by Mad. Act 25 of 1948, namely:—

"6. *Scales and weights to be used in factories.*—(1) No scales or weights shall be kept or used in any cotton ginning or pressing factory other than

¹Subs. for "Provincial Government" by I. A. O., 1950.

²Subs. for "Province" by I. A. O., 1950.

³Brought into force in Bengal except Chittagong Hill Tracts with effect from 1st October, 1942 see Ben. Govt. Notification No. 5323—Com., dated the 26th September, 1942.

⁴For this section as applicable to Punjab, see s. 40 of Punjab Act 12 of 1941, entry 51.

scales or weights prescribed by the Central Government or notified by the [State Government], in this behalf.

(2) If, in any such factory, any scales or weights not so prescribed or notified are kept or used, the owner of the factory shall be punishable with fine which may extend to fifty rupees or in case he has been convicted previously of any offence under this sub-section or sub-section (3), with fine which may extend to five hundred rupees.

(3) The owner, or person in charge of such factory shall produce the scales and weights kept or used therein, at the factory on demand by any person appointed by the [State Government] in this behalf; and if the owner or person in charge fails to do so, he shall be punishable with fine which may extend to fifty rupees; or in case he has been convicted previously of any offence under sub-section (2) of this section, with fine which may extend to five hundred rupees."

7. Liability of lessee as owner.—(1) Where the owner of a cotton ginning or pressing factory has leased the factory for a period of not less than one month in the case of a cotton ginning factory, or three months in the case of a cotton pressing factory, and the lessor retains no interest in the management or profits of the factory and notice of the lease has been given by the lessor and the lessee to the prescribed authority, the lessee shall be deemed to be the owner of the factory, from the date of the notice and for the period of the continuance of the lease, for the purposes of section 3, in respect of the registers maintained or to be maintained from that date and for that period, and for the purposes of sections 4, 5, 5A and 6.

(2) On the termination of the lease the lessee shall hand over to the lessor the registers maintained under section 3; and the lessor shall forthwith report to the prescribed authority any default of the lessee in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(3) If default is made in handing over any register or making any report as required by this section, the lessor or the lessee, as the case may be, shall be punished with fine which may extend to fifty rupees.

Bombay Amendment.—In sub-sec. (1) of sec. 7, after the words "for the purposes of sections" the figures and letters "3A, 3C," were inserted and in sub-sec. (3) for the words "shall be punished" the words "shall, on conviction, be punishable" were substituted by Bom. Act 4 of 1936.

Madras Amendment.—In sub-sec. (1) of sec. 7, for the words and figures "for the purposes of sections 4, 5" the words, figures and letters "for the purposes of sections 3A, 3B, 3F, 4, 5" were substituted by Mad. Act 25 of 1948.

8. Liability on transfer of ownership.—(1) On a transfer of the ownership of a cotton ginning or pressing factory, the transferor shall hand over to the transferee the registers maintained under section 3, and the transferee shall forthwith report to the prescribed authority any default of the transferor in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(2) If default is made in handing over any register or making any report as required by sub-section (1), the transferor or the

transferee, as the case may be, shall be punished with fine which may extend to fifty rupees.

Bombay Amendment.—In sub-sec. (2), sec. 8, for the words "shall be punished" the words "shall, on conviction, be punishable" were substituted by Bom. Act 4 of 1936.

9. Structural requirements for factories.—(1) In the case of cotton ginning factories the construction of which is commenced after the commencement of this Act—

(a) gin-houses shall be provided with separate entrances and exits for the bringing in of unginmed and the taking out of ginned cotton respectively, and

(b) the factories shall be constructed in accordance with plans and specifications approved by the prescribed authority:

Provided that nothing in this sub-section shall apply to any factory in which only roller gins are used where the number of such gins is not more than four.

(1A) In any cotton ginning factory, whether erected before or after the commencement of this Act—

(a) no structural alterations or additions, the construction of which commenced after the 27th day of February, 1939, shall be made so as to minimise the degree of compliance of the factory as a whole with the requirements set forth in clauses (a) and (b) of sub-section (1), and

(b) every structural addition (whether actually attached to any existing structure in the factory or not), the construction of which commenced after the last-mentioned date, shall be constructed in accordance with plans and specifications approved by the prescribed authority:

Provided that nothing in this sub-section shall apply to any factory in which, after any alteration or addition has been made, only roller gins are used where the number of such gins is not more than four.

(2) Within such period after the commencement of this Act as may be prescribed, the owner of every cotton pressing factory in which cotton is handled on the ground floor shall cause the press-house to be paved or provided with other suitable flooring to the satisfaction of the prescribed authority.

(3) If the owner of any factory fails to comply with any provision of this section, which is applicable to the factory, he shall be punished with fine which may extend to one hundred rupees.

(4) (a) Where the owner of a factory has been convicted under sub-section (3), the prescribed authority may serve on the owner of the factory an order in writing directing that such alterations shall be made in the factory, before a specified date, as in the opinion of the said authority are necessary to secure compliance with the provisions of sub-section (1), sub-section (1A) or sub-section (2), as the case may be.

(b) Where the alterations are not made in accordance with the order served under clause (a) of this sub-section, the prescribed authority may serve on the owner and on the occupier, if any, of the factory an order in writing directing that the work of ginning or pressing cotton in such factory shall be suspended until the alterations have been made in accordance with the order served under clause (a) of this sub-section and the owner and the occupier, if any, shall be jointly and severally liable to fine which may extend to fifty rupees for each day on which cotton is ginned or pressed in the factory in contravention of the order served under this clause.

Bombay Amendment.—In sub-sec. (3) for the words "shall be punished" the words "shall, on conviction, be punishable" were substituted by Bom. Act 4 of 1936.

Madras Amendment.—In sec. 9 the following amendments were made by Mad. Act 25 of 1948, namely:—

(1) in sub-sec. (1), omit the word "and" at the end of cl. (a) and after cl. (b) read the following new clause, namely:—

"(c) a kapas opener shall be installed and worked for the purposes of freeing the kapas, before ginning from foreign substances other than cotton waste";

(2) in the same sub-sec., omit the proviso;

(3) in sub-sec. (1A), for cl. (a) read the following new clause, namely:—

"(a) no structural alterations or additions shall be made so as to diminish the degree of compliance of the factory as a whole—

(i) with the requirements set forth in clauses (a) and (b) of sub-section (1), if the alterations or additions commenced after the 27th February, 1939, and before the 31st March, 1949, or

(ii) with the requirements set forth in clauses (a), (b) and (c) of sub-section (1), if the alterations or additions commenced on or after the 31st March, 1949."

(4) in the same sub-sec., in cl. (b), for the words "last-mentioned date" read "27th February, 1939";

(5) in the same sub-sec. omit the proviso.

10. Liability of officers of a company.—Where the person guilty of an offence under this Act is a company, every director, manager, secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment.

11. Cognizance of offences.—(1) No prosecution under this Act shall be instituted except by or with the previous sanction of the District Magistrate or a Chief Presidency Magistrate or a Magistrate of the first class specially empowered in this behalf by the ²[State Government].

(2) No offence punishable under this Act shall be tried by any Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class.

Bombay Amendment.—After sec. 11 the following new section was inserted by Bom. Act 4 of 1936, namely:—

"11A. Power of Magistrate to pass sentence.—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, a Presidency Magistrate or a Magistrate of the First Class may pass any sentence provided

²Subs. for "Provincial Government" by I. A. O., 1950.

for any offence punishable under this Act and the provisions of the said Code shall be deemed to have been amended accordingly."

12. Power of the Central Government to make rules.—The Central Government may make rules² to provide for—

- (a) the allotment of a special mark to be used by each pressing factory for the purpose of the marking of bales;
- (b) the manner in which bales shall be marked; and
- (c) the standard weights and scales to be used in cotton ginning and cotton pressing factories in any part of [the territories to which this Act extends]³ and the inspection of the same.

13. Power of the ²[State Government] to make rules.—The ²[State Government] may, by notification in the Official Gazette, make rules consistent with this Act to provide for all or any of the following matters, namely:—

- (a) the forms in which registers, records and returns are to be maintained or submitted, and the inspection of records and registers;
- (b) the appointment of the authority to whom and the time within which the returns required by sections 5 and 5A shall be made;
* [* * *]
- (d) the appointment of authorities for the purposes of sections 7, 8 and 9;
- (e) the manner of service of orders made under section 9;
- (f) the powers of entry and inspection which may be exercised by District Magistrates or by any officer specially empowered in this behalf by the ²[State Government];
- (g) any other matter which is to be or may be prescribed or for which provision is necessary in order to carry out the purposes of this Act.

Bombay Amendment.—In sec. 13, the following amendments were made by Bom. Act 4 of 1936, namely:—

- (i) after cl. (a) read the following new clauses, namely:—
 - (aa) what shall constitute an admixture of cotton;
 - (ab) the period which shall from time to time constitute a season;
 - (ac) the authority by whom, the form in which, the conditions subject to which and the fees on payment of which, a licence may be granted under sub-section (i) of section 2A;
 - (ad) the particulars of the cotton ginning factory to be entered in the register maintained under sub-section (i) of section 3;
 - (ae) the proportion of seed which may be contained in cotton;
 - (af) the person authorised to give a certificate regarding the quantity of moisture contained in any cotton and other matters specified in section 3A;
 - (ag) the person authorised to examine bales under section 3B;
 - (ah) the procedure for making a complaint and causing the contents of a bale to be examined and the fee for examination of the contents of a bale under sub-section (i) of section 3B;

²Subs. for "Provincial Government" by I. A. O., 1950.

³For such rules, see pp. 170—172, *infra*.

⁴Subs. by Act 3 of 1951 for "Part A States and Part C States" which had been substituted for "the Provinces" by I. A. O., 1950.

⁵Cl. (c) rep. by the A. O. 1937, see now cl. (c) of s. 12.

(ai) the manner in which the things seized shall be sealed under section 3C;⁴

(2) renumber sec. 13 as sub-sec. (1) of that section and after the sub-section so renumbered, read the following new sub-sections, namely:—

"(2) The rules to be made under sub-section (1) shall be subject to the condition of previous publication.

(3) Rules made under sub-section (1) shall as soon as they are made be laid before each of the Chambers of the "[State] Legislature for a period of one month and shall be liable to be modified or rescinded by a resolution passed by each of the Chambers during the session thereof immediately following the expiry of the said period; such rule shall, after notification in the Official Gazette, be deemed to have been modified or rescinded accordingly:

Provided that when, in the opinion of the "[State Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the "[State Government] may, by notification in the Official Gazette, declare that this modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded."

Madras Amendment.—In sec. 13, after cl. (a) the following new clauses were inserted by Mad. Act 25 of 1928, namely:—

"(a-1) the specification of what shall constitute different varieties of cotton for the purposes of section 2, clause (a), section 3C, clause (a) or other purposes;

(a-2) the postponement of the application of rules made under this Act, to cotton ginning or pressing factories in any specified area, and the exemption of factories in any specified area from the operation of such rules;

(a-3) the procedure for making a complaint under section 3E and the investigation thereof."

14. Power to reject unmarked bales in fulfilment of contracts.—

(1) After the expiration of one year from the commencement of this Act, any person who has made a contract for the purchase of baled cotton may require that no bales other than bales, marked with the mark prescribed under section 4 for the factory in which they were pressed, shall be supplied in fulfilment of such contract, and, if he does so require, no bale not so marked shall be tenderable in fulfilment of the contract.

(2) Any bale marked in accordance with the provisions of section 4 shall, within the meaning of the Indian Evidence Act, 1872, be presumed for all purposes as between the parties to a contract for the purchase of baled cotton, to have been so marked before leaving the factory in which it was pressed.

15. *Protection of acts done under the Act.*—No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

Bombay Amendment.—After sec. 15, the following new sections were inserted by Bom. Act 4 of 1936, namely:—

"16. *Penalty.*—Whoever contravenes any of the provisions of this Act or any rule made thereunder or any of the conditions subject to which a licence has been granted to him shall, on conviction, if no other penalty is already provided in this Act for such contravention be punishable with fine which may

⁴Subs. for "Provincial Government" by I. A. O., 1950.

⁵Subs. for "Provincial" by I. A. O., 1950.

extend to five hundred rupees, or, if he has previously been convicted of an offence under this Act or any rule made thereunder, with fine which may extend to fifteen hundred rupees.

17. *Compounding offences, etc.*—(1) The District Magistrate may accept from any person whose licence is liable to be suspended, withdrawn or cancelled under this Act, or who is reasonably suspected of having committed an offence under this Act, a sum of money in lieu of such suspension, withdrawal or cancellation or by way of composition for the offence which may have been committed, as the case may be.

(2) On payment by such person of such sum to the District Magistrate, such person if in custody shall be set at liberty and if criminal proceedings shall have been instituted against such person, the composition shall be held to amount to an acquittal."

Madras Amendment.—After sec. 15, the following new sections were inserted by Mad Act 25 of 1948, namely:—

"16. *Penalty in cases not otherwise provided for.*—Whoever contravenes any of the provisions of this Act or any rule made thereunder or any of the conditions subject to which a licence has been granted to him shall, if no other penalty is provided in this Act for such contravention, be punishable with fine which may extend to five hundred rupees, and in the case of a second or subsequent conviction with fine which may extend to one thousand five hundred rupees.

17. *Compounding of offences, etc.*—(1) Any officer empowered by the "[State Government]" in this behalf may accept from any person whose licence is liable to be suspended or cancelled under this Act, or who has committed or is reasonably suspected of having committed an offence punishable under this Act, a sum of money in lieu of such suspension or cancellation or by way of composition for the offence which has been or may have been committed.

(2) The composition of an offence under sub-section (1) shall have the effect of an acquittal of the offender; and if he is in custody, he shall be set at liberty."

THE INDIAN COTTON GINNING AND PRESSING FACTORIES RULES, 1925¹.

1. *Short title and commencement.*—(1) These rules may be called The Indian Cotton Ginning and Pressing Factories Rules, 1925.

"(1A) They extend to the whole of India except the State of Jammu and Kashmir.]

(2) They shall come into force on the eighth day of August, 1925.

2. *Definitions.*—In these rules—

'Act' means the Cotton Ginning and Pressing Factories Act, 1925.

'Section' means a section of the Act.

3. The owner or lessee of every cotton pressing factory shall apply to the authority appointed to receive returns under sub-section (1) of section 5 for the allotment of the mark required by section 4 to be used

¹Subs. for "Provincial Government" by L. A. O., 1950.

²See Dept. of Commerce Notification No. 236-c(2), d/- 8-8-25; see also G. R. & O., Vol. V, p. 262.

Several State Governments have made rules under the cotton ginning and Pressing Factories Act 7 of 1925 to apply in their respective areas, e.g., the Madras Cotton Ginning and Pressing Factories Rules, 1950, the Bihar Cotton Ginning and Pressing Factories Rules, 1930, etc.

³Inserted by Notification No. S. R. O. 1403 d/- 18-7-53; vide Gazette of India d/- 18-7-53, II-S.3, p. 1100.

for such factory. Such application shall be made, in the case of factories in existence at the commencement of these rules, on or before the 1st September 1925; and in case of factories constructed thereafter, not less than one month before work commences in the factory.

Provided that the authority aforesaid may at any time allot the mark to be used in a factory in respect of which no application has been made and may intimate the allotment to the owner of such factory.

4. *Special mark.*—(1) The special mark allotted to each factory shall consist of a letter denoting the ¹[State] in which the factory is situated together with a number denoting the factory.

²[(2)] The letters denoting the States shall be as follows:—

PART 'A' STATES.

For presses situated in the State of	Bombay the letter—	B.
Do.	Madras the letter—	M.
Do.	Madhya Pradesh the letter—	C.
Do.	Punjab the letter—	H.
Do.	West Bengal the letter—	N.
Do.	Uttar Pradesh the letter—	U.
Do.	Bihar the letter—	Q.
Do.	Orissa the letter—	O.
Do.	Assam the letter—	A.

PART 'B' STATES.

For presses situated in the State of	Hyderabad the letter—	HD.
Do.	Mysore the letter—	MY.
Do.	Madhya Bharat the letter—	M.B.
Do.	Rajasthan the letter—	R.
Do.	Saurashtra the letter—	S.
Do.	Pepsu the letter—	P.

PART 'C' STATES.

For presses situated in the State of	Bhopal the letter—	BP.
Do.	Kutch the letter—	K.
Do.	Delhi the letter—	D.
Do.	Ajmer the letter—	AJ.
Do.	Tripura the letter—	TJ.

(3) The numbers denoting the factory shall run consecutively within each ³[State].

5. *Marks not transferable.*—No special mark once allotted shall be transferred to another factory:

Provided that when a press is transferred from one ⁴[State] to another, the original allotted mark shall no longer be used and application shall be made to the prescribed authority for the allotment of a fresh mark.

6. *Serial number.*—The serial number shall consist of two parts. The first part shall consist of two numerals being the last two integers of the calendar year in which the cotton year has commenced and the

³Subs. for "Province" by Notification No. S.R.O. 1403 d/- 18-7-53; vide Gazette of India d/- 18-7-53, Pt. II S. 3, p. 1100.

⁴Subs. for original sub-r. (2) by Notification No. S.R.O. 1403 d/- 18-7-53; vide Gazette of India d/- 18-7-53, Pt. II—Sec. 3, p. 1100.

second part shall be the running number of the bale according to the press factory register. A new series of running numbers shall be started at the commencement of each cotton year. The cotton year shall commence on the 1st day of September in each calendar year and shall terminate on the thirty-first day of August next following, except in the "[State of Madras]" where the dates for the commencement and ending of the cotton year shall be the 1st day of February and the 31st day of January respectively.

7. *Manner of marking.*—Every bale of cotton pressed in a cotton pressing factory shall be marked in the following manner:—

(1) The special mark and the serial number shall be in English figures and letters and shall be decipherable.

(2) The special mark and the serial number shall be punched on one or more of the hoops or stencilled on the hessian on the lashed side of the bale or may be both so punched and stencilled, provided however that, if stencilled such mark and number shall not be stencilled on an end hessian.

8. The inspection of weights and scales used in the cotton ginning and cotton pressing factories in the "[State of Bombay]" shall be carried out in accordance with the provisions of the Bombay Weights and Measures Rules, 1934.

THE COTTON INDUSTRY (STATISTICS) ACT, 1926.

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SECTIONS.

1. Short title and extent.
2. Definitions.
3. Delivery of monthly returns of goods and yarns manufactured by mill-owners.
4. Power to inspect mills and take copies of records.

SECTIONS.

5. Publication of returns.
6. Power to make rules.
7. Penalties.
8. Exemption.
9. Protection for acts done under this Act.

THE COTTON INDUSTRY (STATISTICS) ACT, 1926.

Act No. XX of 1926¹.

[25th March, 1926.]

An Act to provide for the regular submission of returns of quantities of cotton goods manufactured and cotton yarn spun in
"[certain parts of India]."

WHEREAS it is expedient, notwithstanding the repeal of the Cotton Duties Act, 1896, to provide for the regular submission of returns of

¹Subs. for "Madras Presidency" by *ibid*; vide *ibid*.

²Subs. for "Provincial Government" by I.A.O. 1930.

³Subs. for "Provinces of Bombay and Sind" by Notification No S.R.O. 1403 d/- 18-7-31; vide Gazette of India d/- 18-7-31, Pt II—Sec. 3, p. 1100.

⁴For Statement of Objects and Reasons, see Gazette of India, 1926, Pt. V, p. 100.

⁵Subs. by I. A. O., 1930, for "the Provinces of India" which had been subs. for "British India" by I. A. O., 1928.

the quantities of cotton goods manufactured and cotton yarn spun in ²[certain parts of India]; It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Cotton Industry (Statistics) Act, 1926.

(2) It extends to ³[the whole of India except Part B States].

2. *Definitions.*—For the purposes of this Act, unless there is anything repugnant in the subject or context,—

(a) "cotton goods" or "goods" includes all tissues and other articles (except yarn and thread) woven, knitted or otherwise manufactured wholly or partly from cotton yarn;

(b) "cotton yarn" or "yarn" means yarn wholly or partly composed of cotton fibres;

(c) "mill" means any building or place where cotton goods are woven, knitted or otherwise manufactured, or where cotton yarn is spun, by machinery moved otherwise than by manual labour, and includes every part of such building or place;

(d) "owner", in relation to any mill, includes the managing agent or other principal officer of the mill; and

(e) "prescribed" means prescribed by rules made under this Act.

3. *Delivery of monthly returns of goods and yarn manufactured by mill-owners.*—(1) The owner of every mill shall each month prepare and deliver, or cause to be prepared and delivered, to the prescribed officer a return of all cotton goods manufactured and all cotton yarn spun in the mill during the preceding month by machinery moved otherwise than by manual labour, and shall subscribe a declaration of the truth of the return at the foot thereof.

(2) Save as may be otherwise prescribed, every such return shall state, in respect of each description of goods and of yarn, the quantity manufactured during the period to which the return relates, and shall contain such further information, and be in such form and be subject to such conditions as to verification and otherwise, as may be prescribed.

(3) Every such return shall be delivered to the prescribed officer or posted to his address within seven days after the end of the month to which it relates.

4. *Power to inspect mills and take copies of records.*—(1) Any officer authorised by the ⁴[State Government] by order in writing in this behalf shall have free access at all reasonable times during working hours to any mill and may at any time, with or without notice to the owner, examine and take copies of, or extracts from, the records of the mill for the purpose of testing the accuracy of any return made under section 3, or of informing himself as to any particulars regard-

²See *En. 2* at p. 172 *Supra*.

³Subs. by I. A. O., 1950, for "all the Provinces of India" which had been subs. for "the whole of British India" by I. A. O., 1948.

⁴Subs. for "Provincial Government" by I. A. O., 1950.

ing which information is required for the purposes of this Act or any rules made thereunder:

Provided that no officer not especially empowered by the '[State Government] in this behalf shall be entitled to inspect any record containing the description or formulae of any trade process.

(2) All copies and extracts and all information acquired by any officer in the inspection of any mill under this section shall be treated as strictly confidential.

5. *Publication of returns.*—The '[State Government] shall, from the returns delivered under section 3, cause to be compiled and published, in such form as it may direct, statements showing for each month the total quantities of goods manufactured and of yarn spun in mills in '[the State].

6. *Power to make rules.*—(1) The '[State Government] may, by notification in the Official Gazette, make rules¹ consistent with this Act to carry out the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) The form of any return required under this Act, the particulars to be contained therein, and the manner in which the return shall be verified;

(b) the nature of the records to be maintained by the owners of mills;

(c) the powers and duties, in regard to the inspection of mills under this Act, of the officers authorised to make such inspections; and

(d) any other matter which may be or is to be prescribed.

7. *Penalties.*—(1) Any person who—

(a) knowingly falsifies any record of manufacture or production kept in a mill, or

(b) being required to deliver a return under section 3, knowingly delivers a false return, or

(c) omits to make any return required by section 3, or refuses to sign or complete the same, or

(d) knowingly does any act, not otherwise punishable under this Act, in contravention of the provisions of any rule made under this Act,

shall be punishable with fine which may extend to five hundred rupees.

(2) Any person who discloses any particulars or other information acquired by him in the inspection of any mill under this Act shall be punishable with fine which may extend to one thousand rupees:

¹See *fn.* 4, at p. 173 *Supra*.

²*Subs.* for "the Province" by *ibid.*

³For such rules see pp. 175 *et seq.* *Infra* and also see Gazette of India, 1926, Pt. I, p. 463.

Provided that nothing in this sub-section shall apply to the disclosure—

(a) of any such particulars or information for the purpose of a prosecution under section 193 of the Indian Penal Code (XLV of 1860) or under this Act, in respect of any return kept or record made for the purposes of this Act; or

(b) of any such particulars or information to any person acting in the execution of any duty imposed upon him by this Act, where the disclosure is necessary for the purposes of this Act.

8. *Exemption.*—The⁴[State Government] may, by notification in the Official Gazette, exempt from the operation of this Act or of any specified provision thereof any mill or class of mills, or any goods or class of goods, specified in the notification.

9. *Protection for acts done under this Act.*—No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

THE COTTON INDUSTRY (STATISTICS) RULES, 1926¹.

1. *Short title.*—These rules may be called The Cotton Industry (Statistics) Rules, 1926.

2. *Definition.*—In these rules—

'Act' means the Cotton Industry (Statistics) Act, 1926.

3. *Prescribed officer.*—The officer to whom the return required by sub-section (1) of section 3 of the Act is to be delivered shall be, in the case of mills situate in the Presidency of Bombay, the Collector of Customs, Bombay, and in the case of all other mills, the Director-General of Commercial Intelligence and Statistics, Calcutta.

4. *Form of return.*—(1) The return of cotton goods required by section 3 of the Act shall be in Form A appended to these rules and shall contain the particulars indicated therein shown separately for each description of goods; the return of cotton yarn required by the said section shall be in Form B appended to these rules.

(2) The declaration of the truth of the said returns shall be subscribed in the terms set forth at the foot of the said forms.

5. *Check of returns.*—When a return duly completed has been delivered to the officer prescribed in rule 3 he shall check the same or cause the same to be checked in any manner that may appear to him desirable and may for this purpose examine and compare or cause to be examined and compared the records of the mill to which the return relates.

⁴Subs. for "Provincial Government" by I. A. O., 1950.

¹See Gazette of India, 1926, Pt. I, p. 463; and G. R. & O., Suppl. Vol. II, pp. 1420-1423.

6. *Register of cotton goods manufactured.*—The owner of every mill in which cotton goods are manufactured shall prepare and maintain in English a register to be called 'Register of cotton goods manufactured' in which shall be entered daily the description, weight and yardage or quantity as the case may be of all cotton goods manufactured in the mill.

7. *Register of cotton yarn spun.*—The owner of every mill in which cotton yarn is spun shall prepare and maintain in English a register to be called 'Register of cotton yarn spun' in which shall be entered daily the description of counts and the weight of all yarn spun in the mill.

8. *Registers to be kept on premises of mill.*—The registers prescribed in rules 6 and 7 shall be kept on the premises of the mill.

FORM A.

Particulars of all Cotton Goods manufactured at
Mill during the period beginning and
ending

Description of goods.

Weight
in lb.

Yards or
dozens.

PART I.

Grey and bleached piece-goods.

(To be reported in lb. and yards.)

1.	Chadars	—	—	—
2.	Dhuties	—	—	—
3.	Drills and jeans	—	—	—
4.	Cambrics and lawns	—	—	—
5.	Printers	—	—	—
6.	Shirtings and longcloth	—	—	—
7.	T. Cloth, domestics and sheeting	—	—	—
8.	Tent cloth	—	—	—
9.	Khadi, dungri or khaddar	—	—	—
10.	Other sorts	—	—	—

PART II.

Coloured piece-goods.

(To be reported in lb. and yards.)

1.	Chadars	—	—	—
2.	Langis and dhuties	—	—	—
3.	Drills and jeans	—	—	—
4.	Greys, dyed	—	—	—
5.	Coloured striped saris and musis	—	—	—
6.	Cotton tweeds and checks	—	—	—
7.	Other sorts	—	—	—

PART III.

Grey and coloured goods other than piece-goods

(To be reported in lb. and dozens and grey, bleached and coloured goods of each description to be distinguished.)

PART IV.

Hosiery.

(To be reported in lb. and dozens.)

FORM A (Contd.)

Description of goods.

Weight
in lb.Yards or
dozens.

PART V.

Miscellaneous cotton goods.
(To be reported in lb. only.)

PART VI.

Cotton goods mixed with silk or wool.
(To be reported in lb. only.)

 TOTAL

I do hereby declare that I have compared the above particulars with the records and books of my mill, and that they are in so far as I can ascertain, accurate and complete.

Dated this day of 19 .

Signature _____

(To be signed by the mill-owner, managing agent or other principal officer of the mill.)

FORM B.

Return made for the

Mill showing the description and weight of all yarn spun during
the month ending 19 Count of yarn.
Weight in lb. of each count.

I do hereby declare that I have compared the above particulars with the records and books of my mill, and that they are, in so far as I can ascertain, accurate and complete.

Dated this day of 19 .

Signature _____

(To be signed by the mill-owner, managing agent or other principal officer of the mill.)

THE INDIAN DOCK LABOURERS ACT, 1934.

CONTENTS

SECTIONS.

1. Short title, extent, commencement and application.
2. Definitions.
3. Inspectors.
4. Powers of Inspectors.
5. Power to Central Government to make regulations.
6. Power to Central Government to make rules.
7. General provisions relating to regulations and rules.

SECTIONS.

8. Abstracts of Act and regulations to be conspicuously posted.
9. Penalties.
10. Provisions relating to jurisdiction.
11. Power to exempt.
12. Protection to persons acting under this Act.

THE INDIAN DOCK LABOURERS ACT, 1934.

¹Act No. XIX of 1934.

[10th August, 1934.]

*An Act to give effect ²[*****] to the Convention concerning the protection against accidents of workers employed in loading and unloading ships.*

WHEREAS a Revised Draft Convention concerning the protection against accidents of workers employed in loading or unloading ships was adopted at Geneva on the twenty-seventh day of April, nineteen hundred and thirty-two;

And whereas it is expedient to give effect ³[*****] to the said Convention;

It is hereby enacted as follows:—

1. *Short title, extent, commencement and application.*—(1) This Act may be called the Indian Dock Labourers Act, 1934.

(2) It extends to ⁴[the whole of India ⁵[*****]].

(3) It shall come into force on such ⁶date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It shall not apply to any ship of war of any nationality.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "the processes" includes all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it; and

(b) "worker" means any person employed in the processes.

3. *Inspectors.*—(1) The Central Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(2) All Principal Officers of the Mercantile Marine Department shall be Inspectors under this Act, *ex officio*, within the limits of their charges.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860), and shall be officially subordinate to such authority as the Central Government may direct.

¹For Statement of Objects and Reasons, *see* Gazette of India, 1933, Pt. V, p. 195 and for Report of Select Committee, *see* Gazette of India, 1934, Pt. V, p. 175.

²The words "in the Provinces of India", which had been subs. by I. A. O., 1948 for "in British India", were omitted by I. A. O., 1950.

³Subs. by I. A. O., 1950, for "all the Provinces of India" which had been subs. for "the whole of British India" by I. A. O., 1948.

⁴The words "except Part B States" were omitted by the Part B States (Laws) Act 3 of 1951.

⁵10th February 1948, *see* Gazette of India, 1948, Pt. I, p. 88.

4. *Powers of Inspectors.*—Subject to any rules made in this behalf under section 6, an Inspector may, within the local limits for which he is appointed,—

(a) enter, with such assistants (if any) as he thinks fit, any premises or ship where the processes are carried on;

(b) make such examination of the premises or ship and the machinery and gear, fixed or loose, used for the processes, and of any prescribed registers and notices, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act; and

(c) exercise any other powers which may be conferred upon him by the regulations made under section 5.

5. *Power to Central Government to make regulations.*—(1) The Central Government may make regulations*—

(a) providing for the safety of working places on shore and of any regular approaches over a dock, wharf, quay or similar premises which workers have to use for going to or from a working place at which the processes are carried on, and for the lighting and fencing of such places and approaches;

(b) prescribing the nature of the means of access which shall be provided for the use of workers proceeding to or from a ship which is lying alongside a quay, hulk or other vessel;

(c) prescribing the measures to be taken to ensure the safe transport of workers proceeding to or from a ship by water and the conditions to be complied with by the vessels used for the purpose;

(d) prescribing the nature of the means of access to be provided for the use of the workers from the deck of a ship to a hold in which the processes are carried on;

(e) prescribing the measures to be taken to protect hatchways accessible to the workers and other openings in a deck which might be dangerous to them;

(f) providing for the efficient lighting of the means of access to ships on which the processes are carried on and of all places on board at which the workers are employed or to which they may be required to proceed;

(g) providing for the safety of the workers engaged in removing or replacing hatch coverings and beams used for hatch coverings;

(h) prescribing the measures to be taken to ensure that no hoisting machine or gear, whether fixed or loose, used in connection therewith,

*For such regulations viz., The Indian Dock Labourers Regulations, 1948, see Ministry of Labour Notification No. Pac. 38(1) B, dated 10th January, 1948, pub. in Gazette of India, dated 17th January, 1948, Pt. 1—Sec. 1, pp. 88-99, and also see pp. 182 *et seq.*, *Infra*.

These Regulations apply only within the limits of major port as defined by or under the Indian Ports Act 15 of 1908. [*Vide* sub-paragraph (2) of paragraph 1 of the Regulations.]

is employed in the processes on shore or on board ship unless it is in a safe working condition;

(i) providing for the fencing of machinery, live electric conductors and steam pipes;

(j) regulating the provision of safety appliances on derricks, cranes and winches;

(k) prescribing the precautions to be observed in regard to exhaust and live steam;

(l) requiring the employment of competent and reliable persons to operate lifting or transporting machinery used in the processes, or to give signals to a driver of such machinery, or to attend to cargo falls on winch ends or winch drums, and providing for the employment of a signaller where this is necessary for the safety of the workers;

(m) prescribing the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo, or handling in connection therewith;

(n) prescribing the precautions to be taken to facilitate the escape of the workers when employed in a hold or between decks in dealing with coal or other bulk cargo;

(o) prescribing the precautions to be observed in the use of stages and trucks;

(p) prescribing the precautions to be observed when the workers have to work where dangerous or noxious goods are, or have been, stowed or have to deal with or work in proximity to such goods;

(q) providing for the rendering of first-aid to injured workers and removal to the nearest place of treatment;

(r) prescribing the provision to be made for the rescue of immersed workers from drowning;

(s) prescribing the abstracts of this Act and of the regulations required by section 8;

(t) providing for the submission of notices of accidents and dangerous occurrences and prescribing the forms of such notices, the persons and authorities to whom they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;

(u) specifying the persons and authorities who shall be responsible for compliance with regulations made under this Act;

(v) defining the circumstances in which and conditions subject to which exemptions from any of the regulations made under this section may be given, specifying the authorities who may grant such exemptions and regulating their procedure;

(w) defining the additional powers which Inspectors may exercise under clause (v) of section 4; and

(x) providing generally for the safety of workers.

(z) Regulations made under this section may make special provision to meet the special requirements of any particular port or ports.

(3) In making a regulation under this section, the Central Government may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

6. Power to Central Government to make rules.—The Central Government may make rules regulating—

(a) the inspection of premises or ships where the processes are carried on; and

(b) the manner in which Inspectors are to exercise the powers conferred on them by this Act.

7. General provisions relating to regulations and rules.—(1) The power to make regulations and rules conferred by sections 5 and 6 is subject to the condition of the regulations and rules being made after previous publication.

(2) Regulations and rules shall be published in the Official Gazette.

8. Abstracts of Act and regulations to be conspicuously posted.—There shall be affixed in some conspicuous place near the main entrance of every dock, wharf, quay or similar premises where the processes are carried on, in English and in the language of the majority of the workers, the abstracts of this Act and of the regulations made thereunder which may be prescribed by the regulations.

9. Penalties.—Any person who—

(a) wilfully obstructs an Inspector in the exercise of any power under section 4, or fails to produce on demand by an Inspector any registers or other documents kept in pursuance of the regulations made under this Act, or any gear, fixed or loose, used for the processes, or conceals or prevents or attempts to prevent any person from appearing before, or being examined by, an Inspector, or

(b) unless duly authorised, or in case of necessity, removes any fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing required to be provided by or under the regulations made under this Act, or

(c) having in case of necessity removed any such fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing, omits to restore it at the end of the period for which its removal was necessary,

shall be punishable with fine which may extend to five hundred rupees.

10. Provisions relating to jurisdiction.—(1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act or the regulations made thereunder.

(2) No prosecution for any offence under this Act or the regulations made thereunder shall be instituted except by or with the previous sanction of an Inspector.

(3) No Court shall take cognizance of any offence under this Act or the regulations made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

11. Power to exempt.—The Central Government may, by notification in the Official Gazette, exempt from all or any of the provisions of this Act and of the regulations made thereunder, on such conditions, if any, as it thinks fit,—

(a) any port or place, dock, wharf, quay or similar premises at which the processes are only occasionally carried on or the traffic is small and confined to small ships, or

(b) any specified ship or class of ship.

12. Protection to persons acting under this Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

THE INDIAN DOCK LABOURERS REGULATIONS, 1948¹.

PART I

1. Title and application.—(1) These Regulations may be called THE INDIAN DOCK LABOURERS REGULATIONS, 1948.

²[(2) They extend to the whole of India.]

²[(3)] They shall apply only within the limits of major port as defined by or under the Indian Ports Acts, 1908.

2. Definitions.—In these Regulations, unless there is anything repugnant in the subject or context—

(a) "The Act" means the Indian Dock Labourers Act, 1934 (XIX of 1934);

(b) "form" means a Form appended to these Regulations;

(c) "hatch" means an opening in a deck used for the purpose of the processes or for trimming or for ventilation;

(d) "hatchway" means the whole space within the square of the hatches, from the top deck to the bottom of the hold;

(e) "inspector" means an Officer authorised by the Central Government under section 3 of the Act;

(f) "lifting machinery," means cranes, winches, hoists, derrick booms, derrick and mast bands, goose necks, eyebolts, and all other permanent attachments to the derricks, masts and decks, used in hoisting or lowering in connection with the processes;

¹See Notification No. Fac. 38¹ (1) B, dated 10th January, 1948, pub. in Gazette of India, dated 17th January, 1948, Pt. I—Sec. 1.

²Original cl. (2) renumbered as cl. (3) and new cl. (2) added by Notification No. S. R. O. 1641 d/- 22-8-53; vide Gazette of India d/- 29-8-53, Pt. II—Sec. 3, p. 1342.

(g) "process" includes all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it;

(h) "prescribed" means prescribed by the Central Government;

(i) "premises" means any dock, wharf, quay, or landing place where the processes of loading or unloading of cargo or fuel into or from a ship are carried on;

(j) "pulley block" means pulley, block, gin and similar gear, other than a crane block specially constructed for use with a crane to which it is permanently attached;

(k) "schedule" means a schedule appended to these Regulations;

(l) "ship" does not include country craft, barges or lighters, but includes any other vessel used in navigation not exclusively propelled by oars;

(m) "worker" means any person employed in the processes; and

(n) words and expressions not defined in the regulations but defined or used in the Act have the meaning assigned to them in the Act.

3. Powers of Inspectors.—(1) An Inspector may, with such assistance (if any) as he thinks fit,—

(i) enter, inspect and examine at any time by day or night any premises or ship where the processes are carried on;

(ii) make such examination of the premises or ship and the machinery and gear, fixed or loose, used in the processes as he may deem necessary for carrying out the purposes of the Act;

(iii) require the production of any registers, certificates, notices and documents required to be kept in pursuance of the Act and Regulations and inspect, examine any copy of them;

(iv) examine and take on the spot or otherwise such evidence of any person as he may deem necessary.

(2) The person having the general management and control of the premises and the owner, master, Officer in charge or agents of the ship as the case may be shall furnish such means as may be required by an Inspector for entry, inspection, examination, inquiry, or otherwise for the exercise of his powers under the Act and Regulations in relation to that ship or premises.

4. Duties of Inspectors.—(a) An Inspector shall at each inspection of any premises or ship satisfy himself that the provisions made in the Act and Regulations are fully observed.

(b) An Inspector shall hold an enquiry into the causes of any accident which he has reason to believe was the result of the collapse or failure of lifting machinery or non-compliance with any of the provisions of the Act and Regulations.

(c) An Inspector shall ascertain at each inspection how far any defects disclosed at a previous inspection have been rectified and how far any orders previously issued by him have been complied with. His findings and any defects which may come to light during the current

inspection, together with any orders passed by him under the Act or these Regulations shall be recorded in an Inspection Register maintained in accordance with clause (d) below.

An extract from the record including the orders of the Inspector together with any remarks he may wish to make or any defects found to exist in such ship ²[premises, lifting machinery or gear that he may wish to bring to notice shall be sent to the owner, master, officer-in-charge or agents of the ship or the person in general management and control of the premises, who by himself, his agents, or his employees, carries on the process, as the case may be, in form 'IX'.]

(d) The Inspector shall keep and properly maintain a record of his inspections in a separate register specially maintained for the purpose.

5. *Penalties.*—Whoever being a person whose duty it is to comply with any of these Regulations commits a breach of such Regulations shall be punishable with fine which may extend, in the case of breach of Regulations ³[* *] 59 and 61 to Rs. 200, and in any other case to Rs. 500, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

PART II.

⁴[6. *Responsibilities.*—(1) It shall be the duty of the person having the general management and control of a dock, wharf or quay, to comply with Regulations 7 to 11, 13, 14 and 63:

Provided that, if any other person has, by exclusive right to occupation of any part of the dock, wharf or quay, acquired the general management and control of such part, the duty in respect of such part shall devolve on such other person;

Provided further that, in case of work done on a ship not berthed alongside a wharf or quay, it shall be the duty of the person who, by himself, his agents, or his employees, carries on the process, to comply with Regulation 10, unless he enters into an agreement in writing with the owner, master, officer-in-charge or agents of the ship that the latter will always keep the first aid equipment readily available on the ship, in which case it shall be the duty of the owner, master, officer-in-charge or agents of the ship to comply with Regulation 10.

(2) It shall be the duty of the person, who, by himself, his agents, or his employees, carries on the process, to comply with Regulation 12.]

²Subs. for certain words by *ibid.*

⁴The figure "58" omitted by Notification No. Fac. 38(5), dated 18th March, 1950, *see* Gazette of India, dated 18th March, 1950, Pt. I—Sec. 1, p. 361.

³Subs. for original Regulation 6 by Notification No. S. R. O. 1641 d/- 22-2-53; *vide* Gazette of India d/- 22-2-53, Pt. II—Sec. 3, p. 1348.

7. *Fencing of working places and approaches.*—(1) Every regular approach over a dock, wharf or quay which workers have to use for going to or from a working place at which the processes are carried on and every such working place on shore shall be maintained with due regard to the safety of the workers.

(2) In particular, the following parts shall, as far as is practicable having regard to the traffic and working be securely fenced so that the height of the fence shall be in no place less than two feet six inches, and the fencing shall be maintained in good condition ready for use:—

(a) all breaks, dangerous corners, and other dangerous parts or edges of a dock, wharf, or quay;

(b) both sides of such footways over bridges, caissons, and dock gates as are in general use by workers and each side of the entrance at each end of such footway for a sufficient distance not exceeding five yards:

Provided that in the case of fences which were constructed before the date of promulgation of these regulations, it shall be sufficient if the height of the fence is in no place less than two feet three inches.

8. *Lighting of working-places and approaches.*—All places in which workers are employed and any dangerous parts of the regular road or way over a dock, wharf, or quay, forming the approach to any such place from the nearest highway, shall be safely and efficiently lighted.

9. *Life-saving appliances.*—Provision for the rescue from drowning of workers shall be made and maintained, and shall include—

(a) a supply of life-saving appliances, kept in readiness on the wharf or quay, which shall be reasonably adequate having regard to all the circumstances; and

(b) means at or near the surface of the water at reasonable intervals for enabling a person immersed to support himself or escape from the water which shall be reasonably adequate having regard to all the circumstances.

10. *First-aid*—^a[(1) A sufficient number of first aid boxes or cupboards of the standard set out in Schedule I, shall be provided at all places which are in frequent use for the process, and these shall be at reasonable distance from one another.]

(2) Every first-aid box or cupboard shall be clearly marked "FIRST AID".

(3) Nothing except appliances or requisites for first-aid shall be kept in a first-aid box or cupboard.

(4) [First-aid boxes, cupboards or equipment] shall be kept stocked and in good order and ^a[each first-aid box or cupboard] shall be placed under the charge of a responsible person who shall always be

^aSubs. for original clause (1) by Notification No. S. R. O. 1641 d/- 22-8-53; vide Gazette of India d/- 29-8-53, Pt. II—Sec. 3, p. 1348.

^aSubs. for "First-aid boxes and cupboards" by *ibid*; vide *ibid*, p. 1349.

^aInserted by *ibid*; vide *ibid*, p. 1349.

readily available during working hours. Such person shall, except at docks, wharves or quays at which the total number of workers at any time does not exceed fifty, be a person, trained in first-aid.

*[(5) A sufficient number of standard Army Pattern or "Furley" telescopic handle stretchers complete with slings and "Neil Robertson" or other suitably constructed sling stretchers or other similar appliances for raising injured persons from holds of ships shall be provided at convenient places so as to be readily available in an emergency.]

11. *Ambulances*.—There shall be provided for use at every dock, wharf or quay at which the total number of workers at any time exceeds fifty, a suitably constructed motor ambulance carriage or launch maintained in good conditions, for the purpose of the removal of serious cases of accident or sickness, unless arrangements have been made for obtaining such a carriage or launch when required from a hospital or other place situate not more than two miles from the dock, wharf or quay, and in telephone communication therewith.

12. *Reports of accidents and dangerous occurrences*.—(1) Whenever any accident occurs which either—

(a) causes loss of life to a worker, or

(b) causes such severe injury to a worker that there is no reasonable hope that he will be able to return to work within 48 hours

*[***] notice of the accident shall forthwith be sent by telegram, telephone or special messenger within four hours of the occurrence, to

(i) the Inspector notified for the purpose;

(ii) in the case of fatal accidents only,

(a) the deceased person, in case of fatal accident; and

(b) the injured person, in case the injury is of such a serious nature that the worker is likely to be prevented from returning to duty within ten days; and]

(iii) in the case of fatal accidents only,

(a) the Officer-in-Charge of the nearest Police Station, and

(b) the District Magistrate or if the District Magistrate by order so directs, the Sub-Divisional Magistrate;

Provided that a notice of any accident of which notice is sent in accordance with the requirements of the Explosives Act, 1884, or the Petroleum Act, 1934, need not be sent in accordance with the requirements of this regulation.

In cases of sub-clause (b) of clause (1) above, the injured person shall be given first-aid and thereafter immediately conveyed to a hospital or other place of treatment.

*Inserted by *ibid*; vide *ibid*.

¹Regulations 12 & 31 amended. see Gazette of India, dated 21st May, 1949, Part I, p. 652.

²The word "written" omitted by Notification No. S. R. O. 1641 d/- 22-8-53; vide Gazette of India d/- 20-8-53, Pt. II—Sec. 3, p. 1340.

³Subs. for original items (i) and (ii) by *ibid*; vide *ibid*.

(2) Where any accident causing disablement is notified under this regulation and after notification thereof results in the death of the person disabled, notice in writing of the death shall be sent to the authorities mentioned in clause (1) immediately the death occurs.

*[(3) The following classes of dangerous occurrences shall forthwith be reported to the Inspector in the manner prescribed in clause (1), whether personal injury or disablement is caused or not:—

- (i) collapse or failure of lifting machinery;
- (ii) breakages of ropes, chains or other appliances used in raising or lowering of persons or goods; and
- (iii) collapse or failure of means of access to or from a ship.

(4) The notice so given under clause (1) or clause (3) shall be confirmed within 48 hours of the occurrence by sending a written report to the Inspector in Form XII.]

13. ²[*Washing facilities.*—] There shall be provided and maintained in good and clean condition for the use of workers engaged in loading or unloading coal and dangerous and noxious goods suitable facilities for washing at conveniently accessible places.

14. *Notices.*—Notices shall be exhibited in prominent positions at every dock, wharf, or quay stating—

(a) the position of each first-aid box and the place where the person in charge thereof can be found;

(b) the position of stretchers or other appliances, and

(c) the position of the ambulance carriage or, where such is not provided, the position of the nearest telephone and the name and telephone number of the hospital or other place from which such carriage may be obtained.

PART III.

15. *Responsibilities.*—It shall be the duty of the owner, master, officer in charge or agents of the ship to comply with Regulations 16 to 24.

16. *Access between shore and ship.*—If a ship is lying at a wharf or quay for the purpose of loading or unloading or coaling there shall be safe means of access for the use of workers at such times as they have to pass from the ship to the shore or from the shore to the ship as follows:—

(a) where reasonably practicable the ship's accommodation ladder or a gangway or a similar construction not less than twenty-two inches wide, properly secured and fenced throughout on each side to a clear height of two feet nine inches by means of upper and lower

*Original cl. (3) subs. and new cl. (4) added by *ibid*; *vide ibid*.

²Marginal heading added by *ibid*; *vide ibid*.

rails, taut ropes or chains or by other equally safe means, except that in the case of the ship's accommodation ladder such fencing shall be necessary on one side only provided that the other side is properly protected by the ship's side.

(b) in other cases a ladder of sound material and adequate length which shall be properly secured to prevent slipping:

Provided that nothing in this regulation shall be held to apply to cargo stages or cargo gangways if other proper means of access is provided in conformity with these Regulations:

Provided also that as regards any sailing vessel not exceeding 250 tons net registered tonnage and any mechanically propelled vessel not exceeding 150 tons gross registered tonnage this regulation shall not apply if and while the conditions are such that it is possible without undue risk to pass to and from the ship without the aid of any special appliances.

17. Access from ship to another vessel.—(1) If a ship is alongside another vessel, and workers have to pass from one to the other, safe means of access shall be provided for their use, unless the conditions are such that it is possible to pass from one to the other without undue risk and without the aid of any special appliance.

(2) If the other vessel is a sailing barge, flat, keel, lighter or other similar vessel of relatively low freeboard, the means of access shall be provided by the ship which has the higher freeboard.

18. Access between deck and hold.—(1) If the depth from the level of the deck to the bottom of the hold exceeds five feet, there shall be maintained safe means of access from the deck to the hold in which work is being carried on.

(2) Save as hereinafter provided such access shall be afforded by ladder, and by ladder cleats or cups on the coamings, and shall not be deemed to be safe—

(a) unless the ladders between the lower decks are in the same line as the ladder from the top deck, if the same is practicable having regard to the position of the lower hatch or hatches;

(b) unless the ladders provide a foothold of a depth including any space behind the ladder of not less than $4\frac{1}{2}$ inches for a width of 10 inches and a firm handhold;

(c) unless the cleats or cups provided on coamings (i) provide a foothold of a depth including any space behind the cleats or cups of not less than $4\frac{1}{2}$ inches for a width of 10 inches and a firm handhold; (ii) are so constructed as to prevent a man's foot slipping off the side; (iii) are placed vertically one above the other and in the same line as the ladders to which they give access;

(d) unless the cargo is stowed sufficiently far from the ladder to leave at each rung of the ladder foothold of a depth including any space behind the ladder of not less than $4\frac{1}{2}$ inches for a width of 10 inches and a firm handhold;

(e) unless there is room to pass between a winch or other obstruction and the coamings at the place where the ladder leaves the deck; or

(f) if the ladder is recessed under the deck more than is reasonably necessary to keep the ladder clear of the *hatchway*:

Provided that such access may be afforded—

(i) where the provision of a ladder on a bulkhead or in a trunk *hatchway* can be shown to be reasonably impracticable by cleats or cups complying with the requirements of clause (c);

(ii) by ladders or steps, separate from any *hatchway* or sloping from deck to deck, if such ladders, or steps comply with the requirements of clauses (b), (d) and (e).

(3) Shaft tunnels shall be equipped with adequate handhold and foothold on each side.

19. Lighting for processes on ships.—When the processes are being carried on—

(a) the places in the hold and on the decks where work is being carried on;

(b) the means of access provided in pursuance of regulations 16 and 17, and

(c) all parts of the ship to which workers may be required to proceed in the course of their employment, shall be efficiently lighted, due regard being had to the safety of the ship and cargo, of all workers and of navigation of other vessels and to the provisions of any law and of any rules, regulations, orders or bye-laws having the force of law.

20. Beams used for hatch coverings.—All fore and aft beams and thwartship beams used for *hatch* covering shall have suitable gear for lifting them on and off without it being necessary for any person to go upon them to adjust such gear.

21. Marking of beams and hatch covering.—(1) All *hatch* coverings shall be kept plainly marked to indicate the deck and *hatch* to which they belong and their position therein:

Provided that this regulation shall not apply in cases where all the *hatch* coverings of a ship are interchangeable, or, in respect of marking of position, where all *hatch* coverings of a *hatch* are interchangeable.

(2) Sub-Regulation (1) shall also apply to fore and aft beams and to thwartship beams as it applies to *hatch* coverings.

22. Maintenance of beams and hatch coverings.—All fore and aft beams, and thwartship beams used for *hatch* coverings and all *hatch* coverings shall be maintained in good condition.

23. Hand grips.—Adequate hand grips shall be provided on all *hatch* coverings, having regard to their size and weight, unless the construction of the *hatch* or the *hatch* coverings is of a character rendering the provision of hand grips unnecessary.

*[24. *Handling of noxious and dangerous goods.*—No person shall be allowed to enter any hold of a vessel wherein there is given off dust, fumes or other impurities of such a nature and to such an extent as is likely to be injurious or offensive to the workers, or any dust in substantial quantities, unless—

(i) all practical steps have been taken to remove the dust, fumes or other impurities which may be present and to prevent any further ingress thereof, and the responsible authority under this part has satisfied himself and the said hold is free from dust, fumes or other impurities and fit for persons to enter the same, or

(ii) the person entering such a hold has been provided with suitable protective equipment.]

PART IV.

25. *Responsibility.*—It shall be the duty of the owner of machinery or plant used in the processes and in the case of machinery or plant carried on board a ship, not being a ship registered in '[***] India, it shall also be the duty of the master or chief officer of such a ship to comply with regulations 26 to 43.

*[26. *Competent persons.*—In this Part, except in Regulation 28, the expression "competent person" means an official of a workshop in India approved for any of the specified purposes in respect of testing, examination, annealing or certification of plant, lifting machinery or gear by the Central Government or by an authority nominated by the Central Government in that behalf, and any other person who is recognised as a 'competent person' for the purposes of the national regulations in force in other countries for the implementation of the Protection against Accidents (Dockers) Convention (Revised), 1932, adopted in the International Labour Conference.]

27. *Lifting machinery.*—(1) All lifting machinery shall have been tested and examined by a competent person in the manner set out in Schedule II before being taken into use.

(2) All derricks and permanent attachments including bridle chains to the derrick, mast and deck used in hoisting or lowering shall be inspected once in every twelve months and be thoroughly examined once at least in every four years *[by a responsible person.]

(3) All other lifting machinery shall be thoroughly examined *[by a responsible person] once at least every twelve months.

*Subs. for former Regulation 24 by Notification No. S. R. O. 47, d/- 23-12-53; vide Gazette of India, d/- 2-1-54, Pt. II—Sec. 3, pp. 20–21.

*The word "British" omitted by Notification No. S. R. O. 1641, d/- 22-8-53; vide Gazette of India d/- 20-8-53, Pt. II—Sec. 3, p. 1349.

*Subs. for original Regulation 26 by *ibid*; vide *ibid*.

*Inserted by *ibid*; vide *ibid*.

(4) For the purposes of the regulation thorough examination means a visual examination, supplemented if necessary by other means such as a hammer test, carried out as carefully as the conditions permit, in order to arrive at a reliable conclusion as to the safety of the parts, examined; and if necessary for the purpose, parts of the machinery and gear, shall be dismantled.

28. *Special types of loose gear.*—The following classes of gear,

- (1) chains made of malleable cast iron;
 - (2) Plate link chains;
 - (3) chains, rings, hooks, shackles and swivels made of steel;
 - (4) Pitched chains;
 - (5) rings, hooks, shackles, and swivels permanently attached to pitched chains, pulley blocks or weighing machines;
 - (6) hooks and swivels having screw-threaded parts or ball bearings or other case-hardened parts; and
 - (7) Bordeaux connections,
- shall be thoroughly examined by competent person once at least in every twelve months.

For the purposes of this regulation thorough examination means a visual examination supplemented if necessary by other means, carried out as carefully as the conditions permit, in order to arrive at a reliable conclusion as to the safety of the parts examined, and if necessary for the purpose, parts of the gear shall be dismantled.

¹[For the purposes of 'thorough examination' of the gear carried on board a ship, the Master or the Chief Officer of the ship shall be deemed to be the 'competent person'.]

29. *Other loose gear.*—(1) No chain, ring, hook, shackle swivel or pulley block shall be used in hoisting or lowering unless it has been tested and examined by a competent person in the manner set out in Schedule II.

(2) All chains other than bridle chains attached to derricks or masts and all rings, hooks, shackles and swivels used in hoisting or lowering shall unless they have been subjected to such other treatment as an Inspector may, subject to confirmation by the Central Government, approve, be effectually annealed under the supervision of a competent person and at the following intervals,—

- (i) half-inch and smaller chains, rings, hooks, shackles and swivels in general use, once at least in every six months;
- (ii) all other chains, rings, hooks, shackles and swivels in general use once at least in every twelve months:

Provided that nothing in this sub-regulation shall apply to any of the gear mentioned in regulation 28.

Provided also that in the case of such gear used solely on cranes and other hoisting appliances worked by hand twelve months shall be

¹Inserted by *ibid.*; *vide ibid.*

substituted for six months in sub-clause (i) and two years for twelve months in sub-clause (ii).

Provided also that where an Inspector is of opinion that, owing to the size, design, material or infrequency of use of any such gear or class of such gear, the requirement of this regulation as to annealing is not necessary for the protection of *workers* he may by certificate in writing (which he may in his discretion revoke) and subject to confirmation by the Central Government exempt such gear or class of gear from such requirement subject to such conditions as may be specified in such certificate.

(3) All chains, other than bridle chains attached to derricks or masts, and all rings, hooks, shackles, swivels and all *pulley blocks* shall be inspected by a ²[responsible] person immediately before being taken into use unless they have been inspected within the preceding three months.

(4) All chains, rings, hooks, shackles or swivels used in hoisting or lowering which have been lengthened, altered or repaired by welding shall before being again taken into use be adequately tested and re-examined by a competent person in the manner set out in Schedule II.

30. Ropes.—(1) No rope shall be used in hoisting or lowering unless—

(a) it is of suitable quality and free from patent defect and

(b) in the case of wire rope, it has been examined and tested by a competent person in the manner set out in Schedule II.

(2) Every wire rope in general use for hoisting or lowering shall be inspected by a ²[responsible] person once at least in every three months, provided that after any wire has broken in such rope it shall be inspected once at least in every month.

(3) No wire rope shall be used in hoisting or lowering if in any length of eight diameters the total number of visible broken wires exceeds ten per cent. of the total number of wires or the rope shows signs of excessive wear, corrosion or other defect which, in the opinion of the person who inspects it renders it unfit for use.

(4) A thimble or loop splice made in any wire rope shall have at least three tucks with a whole strand of the rope and two tucks with one half of the wires cut out of each strand and the strands in all cases shall be tucked against the lay of the rope:

Provided that this regulation shall not operate to prevent the use of another form of splice which can be shown to be as efficient as that laid down in this regulation.

31. Register of periodical examination.—A register in Form II shall be maintained in which shall be entered particulars of:—

(a) annual inspections and quadrennial examinations required by regulation 27(2);

²Subs. for "competent" by Notification No. Fac 38(15), d/- 18-3-50, vide Gazette of India, d/- 18-3-50, Pt. I—Sec. 1, p. 301.

³See *l.n.* 1 at p. 186. *Supra*.

- (b) annual examination required by regulation 27 (3);
- (c) the examinations mentioned in regulation 28; and
- (d) the annealing under regulation 29 (2) of chains, rings, etc., unless the certificate mentioned in regulation 32 (2) has been attached to the register in Form II.

32. Certificates of competent persons.—(1) Certificate shall be prepared and attached to the register in Form II in respect of the following in the Forms shown against each:—

- (a) test and examination under regulation 27 (1) of—
 - (i) winches, derricks and their accessory gear—Form III;
 - (ii) cranes or hoists and their accessory gear—Form IV;
- (b) test, examination and re-examination, under regulation 29 (1) and (4) of chains, rings, hooks, shackles swivels and pulley-blocks—Form V;
- (c) test and examination under regulation 30 (1) (b) of wire rope—Form VI.
- (2) Certificates shall be prepared of the annealing of chains, etc., under regulation 29 (2) in Form VII, and unless the required particulars have been entered in the register in Form II, shall be attached to that register.

(3) Certificates shall be prepared of the annual thorough examination of the gear mentioned in regulation 28 in Form VIII.

33. Maintenance and production of register and certificates.—The register and the certificates attached to the register—

- (a) shall be kept on the premises unless some other place has been approved in writing by an Inspector;
- (b) shall be produced on demand before an Inspector; and
- (c) shall be retained for at least four years after the date of the last entry.

34. Machinery, etc., not to be brought into use until the necessary entries are made in the Register.—No machinery, chain, rope or other gear in respect of which an entry is required to be made in the register in Form II, or in respect of which a certificate is required to be attached to such register, whether as an alternative to an entry in Form II or otherwise, or in respect of which a certificate is required to be prepared, shall be used unless and until the required entry has been made, or the required certificate has been so attached, or prepared, as the case may be.

35. Pulley blocks.—No Pulley block shall be used in hoisting or lowering unless the safe working load is clearly stamped upon it.

36. ²³[Safe working load for chain and wire rope slings.]—Means shall be provided to enable any person using a chain or wire rope sling

²³Subs. for original marginal heading by Notification No. S. R. O. 1641 d/- 22-8-53; vide Gazette of India, d/- 26-8-53, Pt. II—Sec. 3, p. 1350.

to ascertain the safe working load for such chain or ²[wire rope] sling under such conditions as it may be used. Such means shall consist—

(a) as regards chain slings, of marking the safe working load in plain figures or letters upon the sling or upon a tablet or ring of durable material attached securely thereto, and

(b) as regards wire rope slings, of either the means specified in clause (a), or a notice or notices, so exhibited as to be easily read by any person concerned, stating the safe working loads for the various sizes of wire rope slings used.

37. Maintenance of chains.—Chains shall not be shortened by tying knots in them and suitable packing shall be provided to prevent the links coming into contact with sharp edges of loads of hard material.

38. Fencing of motors, etc.—All motors, cogwheels, chain and friction gearing, shafting, live electric conductors and steam pipes shall (unless it can be shown that by their position and construction they are equally safe to every worker as they would be if securely fenced) be securely fenced so far as is practicable without impeding the safe working of the ship and without infringing any rules, regulations, orders or bye-laws, having the force of law.

39. Precautions against accidental fall of loads.—¹[(1)] Cranes and winches shall be provided with such means as will reduce to a minimum the risk of the accidental descent of a load while being raised or lowered; in particular, the lever controlling the link motion reversing gear of a crane or winch shall be provided with a suitable spring or other locking arrangement.

²[(2)] The end of a wire rope used for hoisting or lowering shall be securely attached to the winding drum of the winch by means of a clamp or other suitable means.]

40. Fencing of and access to cranes.—The driver's platform on every crane or tip driven by mechanical power shall be securely fenced and shall be provided with safe means of access. In particular, where access is by a ladder—

(a) the sides of the ladder shall extend to a reasonable distance beyond the platform or some other suitable handhold shall be provided;

(b) the landing place on the platform shall be maintained free from obstruction;

(c) in cases where the ladder is vertical and exceeds thirty feet in height, a resting place shall be provided approximately midway between the platform and the foot of the ladder.

41. Safe working load for cranes, etc.—Every crane and derrick shall have the safe working load plainly marked upon it, and every shore crane if so constructed that the safe working load may be varied by the raising or lowering of the jib or otherwise, shall have attached to

¹Ins. by *ibid*; *vide ibid*, p. 1350.

²Regulation 39 renumbered as cl. (1) of that Regulation and new cl. (2) added by *ibid*; *vide ibid*, p. 1350.

if an automatic indicator of safe working loads, provided that in cases where the jib may be raised or lowered, provision on the crane of a table showing the safe working loads at the corresponding inclinations or radii of the jib shall be considered sufficient compliance.

42. Steam.—Adequate measures shall be taken to prevent exhaust steam from, and so far as is practicable live steam to, any crane or winch obscuring any part of the gangways, stages, wharf, or quay where any person is employed in the processes.

43. Derricks.—Appropriate measures shall be taken to prevent the foot of a derrick being accidentally lifted out of its socket or support.

PART V.

44. Responsibilities.—It shall be the duty of every person who by himself, his agents, or employees carries on the processes, and of all agents, employees and workers employed by him in the processes, to comply with Regulations 45 to "[57-A].

Provided that, where the processes are carried on by a stevedore or other person other than the owner of the ship, it shall be the duty of the owner, master or officer in charge of the ship to comply with Regulation 50 so far as it concerns—

(1) any hatch not taken over by the said stevedore or other person for the purpose of the processes, and

(2) any hatch which, after having been taken over by the said stevedore or other person for the purpose of the processes—

(i) has been reported by written notice in Form I to the owner, master or officer in charge of the ship, by or on behalf of the said stevedore or other person as being a hatch at which the processes have been completed or completed for the time being, and

(ii) either has been left by the said stevedore or other person fenced or covered as required by Regulation 50 or has been taken into use by or on behalf of the owner of the ship, and in either case has been so reported by such written notice as aforesaid.

It shall be the duty of the owner, master or officer in charge of the ship to give immediately a written acknowledgment in Form I of such written notice as aforesaid.

45. Escape from holds, etc.—Precautions shall be taken to facilitate the escape of the workers when employed in a hold or on 'tween decks in dealing with coal or other bulk cargo.

***[45A. Access to and from undecked vessels.**—When, in a vessel which is not decked, workers have to carry on the processes in a hold, the depth of which exceeds 5 feet, there shall be safe means of access to and from the hold for their use, and when a ladder is to be used in

*Subs. for the figures "57" by Notification No. S. R. O. 47, d/- 23-12-53: vide Gazette of India, d/- 2-1-54, Pt. II—Sec. 3, p. 20-21.

*Inserted by Notification No. Fac. 38 (15), d/- 18-3-50, vide Gazette of India, d/- 18-3-50, Pt. I—Sec. 1, p. 361.

the hold, it shall be equipped at the top with hooks or other means for firmly securing it.]

46. Loading of lifting machinery.—(1) No lifting machinery chains or other lifting appliance shall be loaded beyond the safe working load:

Provided that a crane may be loaded beyond the safe working load in exceptional cases to such extent and subject to such conditions as may be approved by the engineer in charge or other competent person, if on each occasion—

(a) the written permission of the owner or his responsible agent has been obtained, and

(b) a record of the overload is kept:

Provided also that, where the load upon a single sheave pulley block is attached to the pulley block instead of to the chain or rope passing round the sheave, the load on the pulley block shall be deemed for the purpose of this regulation to be half the actual load.

(2) No load shall be left suspended from a crane, winch, or other machine unless there is a competent person actually in charge of the machine while the load is so left.

47. Drivers of cranes, etc.—No person under 18 years of age and no person who is not sufficiently competent and reliable shall be employed as driver of a crane or which whether driven by mechanical power or otherwise, or to give signals to a driver or to attend to cargo falls on winch-ends or winch-bodies.

48. Passages to be kept clear.—Where goods are placed on a wharf or quay,—

(a) a clear passage leading to the means of access to the ship required by regulation 11 shall be maintained on the wharf or quay; and

(b) if any space is left along the edge of the wharf or quay, it shall be at least three feet wide and clear of all obstruction other than fixed structure, plant and appliances in use.

49. Deck and cargo-stages.—(1) No deck-stage or cargo-stage shall be used in the processes unless it is substantially and firmly constructed and adequately supported, and, where necessary securely fastened.

(2) No truck shall be used for carrying cargo between ship and shore on a stage so steep as to be unsafe.

(3) Any stage which is slippery shall be made safe by the use of sand or otherwise.

50. Hatches not in use.—(1) If any hatch of a hold accessible to any worker and exceeding five feet in depth, measured from the level of the deck in which the hatch is situated to the bottom of the hold, is not in use for the passage of goods, coal or other material, or for trimming, and the coamings are less than two feet six inches in height, such hatch shall either be fenced to a height of three feet or be securely

covered *[and similar measures shall be taken, when necessary to protect all other openings in a deck which might be dangerous to the workers]:

Provided that this requirement shall not apply (i) to vessels not exceeding 200 tons net registered tonnage which have only one *hatchway*, and (ii) to any vessel during meal times or other short interruptions of work during the period of employment.

(2) *Hatch* covering shall not be used in the construction of deck or cargo stages, or for any other purpose which may expose them to damage.

(3) *Hatch* covering shall be replaced on the hatches in the positions indicated by the markings made thereon in pursuance of regulation 21.

51. Handling at intermediate decks.—No cargo shall be loaded or unloaded by a fall or sling at any intermediate deck unless either the hatch at that deck is securely covered or a secure landing platform of a width not less than that of one section of *hatch* coverings has been placed across it:

Provided that this regulation shall not apply to any process of unloading the whole of which will be completed within a period of half an hour.

52. Hooks for bales, etc.—When the working space in a hold is confined to the square of the *hatch*, hooks shall not be made fast in the hands or fastenings of bales of cotton, wool, cork, gummy bags or other similar goods; nor shall can hooks be used for raising or lowering a barrel when, owing to the construction or condition of the barrel or of the hooks, their use is likely to be unsafe.

Nothing in this regulation shall apply to breaking out or making up slings.

53. Skeleton decks.—When work is proceeding on any skeleton deck, adequate staging shall be provided unless the space beneath the deck is filled with cargo to within a distance of two feet of such deck.

54. Stowing and unstowing.—Where stacking, unstacking, stowing or unstowing of cargo or handling in connection therewith cannot be safely carried out unaided reasonable measures to guard against accident shall be taken by shoring or otherwise.

55. Hatches in use.—¹[(1) All hatch covers exceeding 125 lbs. in weight and all beams of any hatch in use shall be handled with the help of a winch or crane or other mechanical means.]

²[(2)] The beams of any *hatch* in use for the *processes*, shall, if not removed, be adequately secured to prevent their displacement.

56. Signallers.—When cargo is being loaded or unloaded by a fall at a *hatchway*, a signaller shall be employed, and where more than one

¹Inserted by *ibid*; *vide ibid*.

²Regulation 55 renumbered as cl. (2) of that Regulation and before cl. (2) as so renumbered new cl. (1) inserted by Notification No. S. R. O. 1641 d/- 22-8-53; *vide* Gazette of India d/- 20-8-53. Pt. II—Sec. 3, p. 1350.

fall is being worked at a *hatchway*, a separate signaller shall be employed to attend to each fall:

Provided that—

(i) this regulation shall not apply, in cases where a barge lighter or other similar vessel is loaded or unloaded if the driver of the crane or winch working the fall has a clear and restricted view of those parts of the hold where work is being carried on; and

(ii) where the inspector is of opinion that, owing to the nature of the crane or winch or other appliance in use or by reason of any special arrangements, the requirements of this regulation are not necessary for the safety of workers, he may by certificate in writing (which he may in his discretion revoke) suspend such requirements subject to such conditions as may be specified in such certificate.

57. Transport of workers.—When any worker has to proceed to or from a ship by water for the purpose of carrying on the *processes*, proper measures shall be taken to provide for his safe transport. Vessels used for this purpose shall be in charge of a competent person, shall not be over-crowded, and shall be properly equipped for safe navigation and maintained in good condition.

[57A. Handling of caustic and corrosive substances.—When during a process involving the handling of any caustic or corrosive substance there is likelihood of any spillage or leakage of the substance, no person shall be allowed to work without wearing suitable protective clothing or other equipment.]

PART VI.

[58. Removal of fencing safety and appliances etc.]—(1) No person shall, unless duly authorised or in case of any emergency remove or interfere with any fencing, gangway, gear, ladder, hatch, covering, life-saving means or appliances, lights, marks, stages or other things whatsoever required by these Regulations to be provided. If removed, such things shall be restored at the end of the period during which their removal was authorised or at the end of the emergency as the case may be by the person last engaged in the work that necessitated such removal.

(2) The fencing required by regulation 7 shall not be removed except to the extent and for the period reasonably necessary for carrying on the work of the dock or ship, or for repairing any fencing. If removed, it shall be restored forthwith at the end of that period by the persons engaged in the work that necessitated its removal.]

59. Workers to use proper means of access.—Every worker shall use the means of access provided in accordance with regulations 16,

¹Inserted by Notification No. S. R. O. 47. d/- 23-12-53, vide Gazette of India, d/- 2-1-54, Pt. II—Sec. 3, pp. 20—21.

²Subs. for original Regulation 58 by Notification No. Fac. 38 (15), d/- 18-3-50, vide Gazette of India d/- 18-3-50, Pt. I—Sec. 1, p. 361.

³Marginal heading inserted by Notification No. S. R. O. 1641 d/- 22-8-53; vide Gazette of India d/- 29-8-53, Pt. II—Sec. 3, p. 1350.

17 and 18, and no person shall authorise or order another to use means of access other than those provided in accordance therewith.

60. Persons not to go upon beams for adjusting gear.—No person shall go upon the fore and aft beams or thwartship beams for the purpose of adjusting the gear for lifting them on and off nor shall any person authorise or order another to do so.

PART VII.

61. Employer's responsibility for machinery, etc.—No employer shall allow the use by workers of machinery or gear which does not comply with the regulations in Part IV.

¹[**62. Employers' responsibility for safe access, lighting, and handling of noxious and dangerous goods.**—If the persons whose duty it is to comply with regulations 16, 17, 19 and 24, fail to do, then it shall also be the duty of the employers of the workers, for whose use the means of access, lights and protective equipment, as the case may be, are required, to comply with the said regulations within the shortest time reasonably practicable after such failure.]

PART VIII.

63. Abstracts to be affixed.—The abstracts of the Indian Dock Labourers Act, 1934, ¹⁸[(Form X)] and of these Regulations which are to be affixed in accordance with section 3 of the said Act in some conspicuous place near the main entrance of every dock, wharf, quay or similar premises where the processes are carried on, shall consist of sections 3 (1), 3 (2), 4 (a), 4 (b), 9, 10 (2) of the said Act and regulations 2 (g); 2(m); 3-5 and 7, 19, 33-55, 57-62 and schedule II ¹⁹[Form XI].

SCHEDULE I.

(Vide Regulation 10.)

[****]

Each first-aid box or cupboard shall contain at least:—

1. A copy of the first-aid leaflet (Form 923) issued by the Factory Department of the Home Office in the United Kingdom.
2. Forty-eight sterilised finger dressings.
3. Twenty-four sterilised hand or foot dressings.
4. Twenty sterilised large or body dressings.
5. Six small, four large and two extra large sterilised burn dressings.
6. Three half-ounce packets sterilised cotton wool.
7. A bottle of two per cent. tincture of iodine.
8. A bottle of tal volatile.
9. Eye drops, prepared as described in the first-aid leaflet (Form 923).

¹⁸Sub. for former Regulation 62 by Notification No. S. R. O. 47, d/- 23-12-53; vide Gazette of India, d/- 2-1-54, Pt. II—Sec. 3, pp. 20—21.

¹⁹Inserted by Notification No. S. R. O. 1641 d/- 22-8-53; vide Gazette of India d/- 29-8-53, Pt. II—Sec. 3, p. 1350.

²⁰Certain words omitted by *ibid.*; vide *ibid.*

10. Set of splints, cotton wool for padding.
11. Spool, ten yards by one inch, of adhesive plaster.
12. St. John Tourniquet.
13. Eighteen assorted roller bandages in envelopes.
14. Nine triangular bandages in envelopes.
15. Box of safety pins.
16. One pair surgical scissors.
17. Two ounce medicine glass.

²[Provided that where an Inspector is of the opinion that, owing to the number of first-aid boxes or cupboards provided and the availability of extra facilities, such as well equipped ambulance room or dispensary, the standard prescribed in the above Schedule may be relaxed, he may, subject to the confirmation by the Central Government, issue a certificate in writing (which he may at his discretion revoke), specifying the extent to which the relaxation is given.]

SCHEDULE II.

Manner of Test Examination before taking Lifting Machinery and Gear into use.

Regulations 27 (1), 29 (1) and 30 (1).—(a) Every winch with the whole of the gear accessory thereto (including derricks, goose necks, eye plates, eye-bolts or other attachments) shall be tested with a proof load which shall exceed the safe working load as follows:—

<i>Safe working load.</i>				<i>Proof load.</i>
Up to 20 tons	—	—	—	25 per cent. in excess.
20—50 tons	—	—	—	5 tons in excess.
Over 50 tons	—	—	—	10 per cent. in excess.

The proof load shall be applied either (i) by hoisting moveable weights or (ii) by means of a spring or by hydraulic balance or similar appliance, with the derrick, at the angle to the horizontal which shall be stated in the certificate of the test. In the former case, after the moveable weights have been hoisted, the derrick shall be swung as far as possible in both directions. In the latter case, the proof load shall be applied with the derrick swing as far as practicable first in one direction and then in the other.

(b) Every crane and other hoisting machine with its accessory gear shall be tested with a proof load which shall exceed the safe working load as follows:—

<i>Safe working load.</i>				<i>Proof load.</i>
Up to 20 tons	—	—	—	25 per cent. in excess.
20—50 tons	—	—	—	5 tons in excess.
Over 50 tons	—	—	—	10 per cent. in excess.

The said proof load shall be hoisted and swung as far as possible in both directions. In the case of a jib-crane if the jib has a variable radius, it shall be tested with a proof load as defined above at the maximum and minimum radii of the jib. In the case of hydraulic cranes or hoists, where, owing to the limitation of pressure, it is impossible to hoist a load 25 per cent. in excess of the safe working load, it shall be sufficient to hoist the greatest possible load.

(c) Every article of loose gear (whether it is accessory to a machine or not) shall be tested with a proof load at least equal to that shown against the article in the following table:—

²Inserted by *ibid*; *vide ibid*.

<i>Article of Gear.</i>	<i>proof load.</i>
Pitched chain used with hand operated Pulley Blocks and Rings, Hooks Shackles permanently attached thereto.	One and a half times the safe working load.
Other chains — — — — —	Twice the safe working load.
" Rings — — — — —	
" Hooks — — — — —	
" Shackles — — — — —	
" Swivels — — — — —	
Hand operated Pulley Blocks used with Pitched Chains and Rings, Hooks, Shackles or Swivels permanently attached thereto.	One and a half times the safe working load.
Other Pulley Blocks—	
Single Sheave Block — — — — —	Four times the safe working load.
Multiple Sheave Block with safe working load up to and including 20 tons.	Twice the safe working load.
Multiple Sheave Block with safe working load over 20 tons up to and including 40 tons.	Twenty tons in excess of the safe working load.
Multiple Sheave Block with safe working load over 40 tons.	One and a half times the safe working load.

Provided that where an Inspector is of opinion that, owing to the size, design, construction, material or use of any such loose gear or class of such gear, any of the above requirements are not necessary for the protection of workers, he may by certificate in writing (which he may in his discretion revoke), and subject to confirmation by the Central Government exempt such gear or class of gear from such requirement, subject to such conditions as may be stated in the certificate.

(d) After being tested as aforesaid, all machines with the whole of the gear accessory thereto and all loose gear shall be examined, the sheaves and the pins of the pulley blocks being removed for the purpose, to see that no part is injured or permanently deformed by the test.

(e) In the case of wire rope, a sample shall be tested to destruction and the safe working load shall not exceed one fifth of the breaking load of the sample tested.

FORM I.

THE INDIAN DOCK LABOURERS REGULATIONS, 1948.

Notice to the owner, master or officer in charge (name of ship) _____

I hereby give notice that the processes of loading or unloading or coaling have been completed (*for the time being) at the hatches named below, and that the hatches in question have been

† { left, fenced or covered as required by Regulation 50.
 { taken into use by you or on your behalf.

* Delete if not required.

† Delete whichever is not required.

Hatchway	Deck

Signature _____

Time _____

Date _____

FORM II.

Part I.

Annual Inspection and Quadrennial Thorough Examination of Derricks and Permanent Attachments (including Bridle Chains) to the Derricks, Masts and Decks, Regulation 27 (2).

If all the derrick booms and above-named gear are inspected or thoroughly examined on the same date it will be sufficient to enter in Col. 1: "All derrick booms and above-named gear." If not, the parts which have been inspected or thoroughly examined on the dates stated must be clearly indicated.

QUADRENNIAL THOROUGH EXAMINATIONS.

Situation and description of gear inspected or examined with distinguishing number or mark (if any).	Number of certificate of test and examination of competent person.	I certify that on the date to which I have appended my signature, the gear shown in Col. 1 was thoroughly examined and no defects affecting its safe working condition were found other than those shown in Col. 3.		Remarks (To be initialed and dated).
		Date and Signature.	Date and Signature.	
(1)	(2)			(3)

"Thorough examination" means a visual examination, supplemented if necessary by other means such as a hammer test, carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined; and if necessary for this purpose, parts of the machines and gear must be dismantled.

ANNUAL INSPECTIONS.

I certify that on the date to which I have appended my signature, the gear shown in Col. 1 was inspected and no defects affecting its safe working condition were found other than those shown in Col. 4.

Remarks

(To be initialled and dated).

Date and Signature.	Date and Signature.	Date and Signature.	Date and Signature.	Date and Signature.	Date and Signature.	(4)

PART II.

Annual Thorough Examination of Cranes, Winches, Hoists and Accessory Gear other than Derricks and Permanent Attachments thereto, Regulation 27 (3).

Col. 1 should show clearly the machines and gear which have been thoroughly examined. If (e.g.) all the winches (with their accessory gear) have been thoroughly examined, it will be sufficient to enter "All winches, blocks, shackles and other accessory gear."

"Thorough examination" means a visual examination, supplemented if necessary by other means such as a hammer test, carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined; and if necessary for this purpose, parts of the machines and gear must be dismantled.

Situation and description of machinery and gear examined, with distinguishing number or mark (if any)	Number of certificate of test and examination.	I certify that on the date to which I have appended my signature the machinery and gear shown in Col. 1 was thoroughly examined and no defects affecting its safe working condition were found other than those shown in Col. 3.			Remarks
(1)	(2)	Date and Signature.	Date and Signature.	Date and Signature.	(To be initialled and dated).

REGULATION 28. PART III.

Annual Thorough Examination of Gear Exempted from annealing, namely:—

- | | |
|--|---|
| (1) Chains made of malleable cast iron; | (2) Plate link chains; |
| (3) Chains, rings, hooks, shackles and swivels made of steel; | (4) Pitched chains; |
| (5) Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines; | (6) Hooks, and swivels having screw threaded parts or ball bearings or other case hardened parts; |
| (7) Bordeaux connection. | |

"Thorough examination" means a visual examination, supplemented if necessary by other means carried out as carefully as the conditions permit in order to arrive at reliable conclusion as to the safety of the parts examined, and if necessary for this purpose, parts of the gear must be dismantled.

Distinguishing number or mark.	Description of gear thoroughly examined.	Number of certificate of test and examination.	I certify that on the date to which I have appended my signature, the gear described in Cols. 1 and 2 was thoroughly examined by a competent person and no defects, affecting its safe working condition were found other than those shown in col. 4.			Remarks. (To be initialled and dated.
			Date and Signature.	Date and Signature.	Date and Signature.	
(1)	(2)	(3)				(4)

REGULATION 29 (2).

PART IV.

Annealing of chains, rings, hooks, shackles and swivels (other than those exempted—see Part III).

Half inch and smaller chains, rings, hooks, shackles and swivels in general use.	<div style="display: inline-block; vertical-align: middle;"> <div style="font-size: 3em; vertical-align: middle; margin-right: 5px;">{</div> <div> <p>If used with lifting machinery driven by power must be annealed once at least in every 6 months.</p> <p>If used solely with lifting machinery worked by hand, must be annealed once at least in every 12 months.</p> </div> </div>
Other chains, rings, hooks, shackles and swivels in general use.	<div style="display: inline-block; vertical-align: middle;"> <div style="font-size: 3em; vertical-align: middle; margin-right: 5px;">{</div> <div> <p>If used with lifting machinery driven by power must be annealed once at least in every 12 months.</p> <p>If used solely with lifting machinery worked by hand, must be annealed once at least in every 2 years.</p> </div> </div>

NOTE.—It is recommended—though not required by the Regulations—that annealing should be carried out in a suitably constructed furnace heated to a temperature between 1100 degrees and 1200 degrees Fahrenheit or 600 degrees and 700 degrees Centigrade, for a period between 30 and 60 minutes.

Distinguishing number or mark	Description of gear annealed.	Number of certificate of test and examination.	I certify that on the date to which I have appended my signature the gear described in Cols. 1 and 2 was effectually annealed under the supervision of a competent person, that after being so annealed every article was carefully inspected and that no defects affecting its safe working condition were found other than those shown in Col. 4.			Remarks. (To be initialled and dated).
			Date and Signature.	Date and Signature.	Date and Signature.	
(1)	(2)	(3)				(4)

REGULATION 27 (1).

FORM III.

Test Certificate No. _____

Certificate of test and examination of winches, derricks and accessory gear, before being taken into use.

Situation and Description of Machinery and Gear with distinguishing number or make (if any).	Angle to the horizontal of derrick boom while the load was applied.	Proof load applied.	Safe working load at the angle shown in Col. 2.
(1)	(2)	(3)	(4)
	Degrees	Tons	Tons

I certify that on the _____ day of _____ 194____, the above machinery together with its accessory gear was tested by a competent person in the manner set forth overleaf; that a careful examination of the said machinery and gear by a competent person after the test showed that it had withstood the proof load without injury or permanent deformation; and that the safe working load of the said machinery and gear is as shown in Col. 4.

Signature _____ Date _____

Qualification (see note 3) _____

NOTES.—1. Column 1. If the machinery is on a ship, the name of the ship must be stated. Sufficient particulars must be given to identify the gear, for example, in the case of a winch or derrick, the number of the hold, etc., should be shown.

2. Column 2. As a rule, a derrick should be tested with the boom at the lowest position at which it is to be used.

3. "Competent person" means:—

(a) in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government;

(b) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or, except for the purposes of Regulation 29 (2) a person nominated in that behalf by and authority approved by the Central Government for the purpose of nominating competent persons and includes in the case of machinery and plant carried on board a ship registered elsewhere than in India, any person who is recognised as a competent person for the purposes of the national regulations in force for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932, adopted by the International Labour Conference.

FORM IV.

Test Certificate No. _____

Certificate of test and Examination of Cranes or Hoists and their accessory gear before being taken into use.

Situation and Description of Crane or Hoist with distinguishing number or mark (if any).	For jib cranes, radius at which the proof load was applied.	Proof load applied.	Safe working load [for jib cranes at radius shown in col. 2.]
(1)	(2)	(3)	(4)
	Feet.	Tons.	Tons.

I certify that on the _____ day of _____ 19____, the above machinery together with its accessory gear was tested by a competent person in the manner set forth overleaf; that a careful examination of the said machinery and gear by a competent person after the test showed that it had withstood the proof load without injury or permanent deformation; and that the safe working load of the said machinery and gear is as shown in Col. 4.

Signature _____ Date _____

Qualification (see note 3) _____

Notes.—1. Column 1. Sufficient particulars must be given to identify the crane or hoist. If on a ship the name of the ship must be stated.

2. Column 2. If the jib has a variable radius, proof loads must be applied at the maximum and minimum radii.

3. "Competent person" means:—

(a) in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government;

(b) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or, except for the purposes of Regulation 29 (2) a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating competent

persons and includes in the case of machinery and plant carried on board a ship registered elsewhere than in India, any person who is recognised as a competent person for the purposes of the national regulations in force for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932, adopted by the International Labour Conference.

REGULATION 29 (1) AND (4).

FORM V.

Test Certificate No. _____

Certificate of Test and Examination of Chains, Rings, Hooks, Shackles, Swivels and Pulley Blocks, before being taken into use.

Distinguishing Number or Mark.	Description of Gear.	Number tested.	Date of test.	Proof load applied.	Safe working load.
(1)	(2)	(3)	(4)	(5)	(6)
				Tons.	Tons.

(7) Was the gear examined by a competent person after the application of the proof load and found to have withstood the load without deformation and to be free from cracks, flaws or other defects? _____

(8) Name and address of makers or suppliers _____

I certify that the above particulars are correct. _____

Signature _____

Date _____

Qualification (see note) — _____

NOTES.—“Competent person” means:—

(a) in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government;

(b) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or, except for the purposes of Regulation 29 (2) a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating competent persons and includes in the case of machinery and plant carried on board a ship registered elsewhere than in India, any person who is recognised as competent person for the purposes of the national regulations in force for the implementation of the Protection against Accidents (Dockers) Conventions (Revised) 1932, adopted by the International Labour Conference.

REGULATION 30 (1) (b).

FORM VI.

Test Certificate No. _____

Certificate of Test and Examination of Wire Rope before being taken into use.

(1) Name and address of the maker or supplier of the rope _____

(2) (a) Circumference of rope in inches _____

(b) Number of strands _____

- (c) Number of wires per strand — —
 (d) Lay — —
 (3) Quality of Wire (e.g., Best Plough Steel) — —
 (4) (a) Date of test of sample of the rope — —
 (b) Load at which this sample broke — —
 (c) Safe working load, subject to any stated qualifying conditions, such as minimum pulley diameter, direct tensile load, etc. — —

I certify that the above particulars are correct.

Signature _____

Date _____

Qualification (see note) _____

Notes.—“Competent person” means:—

(a) in the case of machinery or plant carried not on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government;

(b) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government or, except for the purposes of Regulation 29 (2), a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating competent persons and includes in the case of machinery and plant carried on board a ship registered elsewhere than in India, any person who is recognised as competent person for the purposes of the national regulations in force for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932, adopted by the International Labour Conference.

REGULATION 29 (2).

FORM VII.

Annealing Certificate No. _____

Certificate of Annealing of Chains, Rings, Hooks, Shackles and Swivels.

Distin- guishing Number or Mark.	Description of Gear	Number of certificate of test and examina- tion.	Number annealed.	Date of annealing.	Defects found at careful inspection after annealing.
(1)	(2)	(3)	(4)	(5)	(6)

I certify that on the date shown in Col. 5, the gear described in Cols. 1 to 4 was effectively annealed under my supervision, that after being so annealed every article was carefully inspected; and that no defects affecting its safe working condition were found other than those indicated in Col. 6.

Signature _____

Date _____

Qualification [See note (c)] _____

Notes.—(a) The requirement as to annealing and the competency of the person under whose supervision the annealing is carried out, are set forth overleaf.

(b) It is recommended—though not required by the Regulations—that annealing should be carried out in a suitably constructed furnace, heated to a temperature between 1100 degrees and 1200 degrees Fahrenheit or 600 degrees and 700 degrees Centigrade, for a period between 30 and 60 minutes.

(c) "Competent person" means:—

(i) in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government;

(ii) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or, except for the purposes of Regulation 29 (2), a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating competent persons, and includes in the case of machinery and plant carried on board a ship registered elsewhere than in India, any person who is recognised as a competent person for the purposes of the national regulations in force for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932 adopted by the International Labour Conference.

FORM VIII.

Certificate No. _____

THE INDIAN DOCK LABOURERS REGULATIONS, 1948.

REGULATION 28.

Certificate of Annual thorough Examination of Gear exempted from annealing, namely:—

- (1) Chains made of malleable cast iron;
- (2) Plate link chains;
- (3) Chains, rings, hooks, shackles and swivels made of steel;
- (4) Pitched chains;
- (5) Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines;
- (6) Hooks and swivels having screw-threaded parts or ball bearings or other case-hardened parts;
- (7) Bordeaux connections.

Distinguishing Number or Mark.	Description of Gear thoroughly examined (see paragraph 2 overleaf).	Number of certificate of test and examination.	Remarks.
(1)	(2)	(3)	(4)

I certify that on the _____ day of _____ 194____, the above gear was thoroughly examined by a competent person and that no defects affecting its safe working condition were found other than those indicated in Col. 4.

Signature _____ Date _____

Qualification of competent person { _____
(see note)

NOTES—"Competent person" means:—

(a) in the case of machinery or plant not carried on board a ship, any person appointed in that behalf by the Port Authority with the sanction of the Central Government;

(b) in the case of machinery or plant carried on board a ship, an official of a workshop approved in that behalf by the Central Government, or, except for the purposes of Regulation 29 (2) a person nominated in that behalf by an authority approved by the Central Government for the purpose of nominating competent persons and includes in the case of machinery and plant carried on board a ship registered elsewhere than in India, any person who is recognised as a competent person for the purposes of the national regulations in force for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932, adopted by the International Labour Conference.

*[FORM IX

THE INDIAN DOCK LABOURERS REGULATIONS, 1934.

Inspector's Notice on Inspection of Premises, Ships, Lifting Machinery or Gear.

Inspector's Notice to the person having the general management and control of the premises, or the Owner, Master, Officer-in-Charge or Agents of the Ship, or the person, who, by himself, his agents, or his employees, carries on the process, as the case may be.

Name of premises, ship, lifting machinery or gear.	Where situated/ lying/used.	Port of Registry of ship.	Official Number (if any) of ship.

Sir,

An inspection of the above-named premises/ship/lifting machinery/gear having been made on _____ I have to inform you that the requirements mentioned below must be complied with within _____ days of the receipt of this notice.

On hearing from you that the requirements have been complied with, the premises/ship/lifting machinery/gear will again be visited with a view to the inspection being completed.

No. _____

Dated at _____

this _____ day of _____ 19 .

Inspector under the
Indian Dock Labourers Act, 1934.

REQUIREMENTS

On compliance with all or any of the requirements, the Inspector should be informed in the manner prescribed overleaf, of the date and place at which the Premises/Ship/Lifting Machinery/Gear can be re-inspected.

*Subs. for original Form IX by Notification No. S.R.O., 1641 d/- 22-8-53.
vide Gazette of India d/- 29-8-53, Pt. II—Sec. 3, pp. 1350—1351.

Sir, The requirements notified by you have been effectively fulfilled. The premises/ship/lifting machinery/gear will be ready for inspection on the date and place named below:—

Date of Inspection	Place

Dated at _____
this _____ day of _____ 19 .

Person having the general management and control of the premises/Owner, Master, Officer-in-Charge or Agents of the ship/Person who, by himself, his agents, or his employees, carries on the process,

To
The Inspector under the Indian Dock Labourers' Act, 1934]

*[FORM X

ABSTRACT OF THE INDIAN DOCK LABOURERS' ACT, 1934
(INDIA ACT NO. XIX OF 1934)

(See Regulation 63)

* * * * *

3. (1) The Central Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(2) All Principal Officers of the Mercantile Marine Department shall be Inspectors under this Act, *ex-officio* within the limits of their charges.

* * * * *

4. Subject to any rules made in this behalf under section 6, an Inspector may, within the local limits for which he is appointed,—

(a) enter, with such assistance (if any) as he thinks fit, any premises or ship where the processes are carried on;

(b) make such examination of the premises or ship and the machinery and gear, fixed or loose, used for the processes, and of any prescribed registers and notices, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act;

*Forms X—XII added by Notification No. S. R. O. 1641 d/- 22-8-53; vide Gazette of India d/- 29-8-53, Pt. II—Sec. 3, pp. 1351—1360.

9. Any person who—

(a) wilfully obstructs an Inspector in the exercise of any power under section 4, or fails to produce on demand by an Inspector any registers or other documents kept in pursuance of the regulations made under this Act, or any gear, fixed or loose, used for the processes, or conceals or prevents or attempts to prevent any person from appearing before, or being examined by, an Inspector, or

(b) unless duly authorised, or in case of necessity, removes any fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing required to be provided by or under the regulations made under this Act, or

(c) having in case of necessity removed any such fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing, omits to restore it at the end of the period for which its removal was necessary,

shall be punishable with fine which may extend to five hundred rupees.

10. (a) No prosecution for any offence under this Act or the regulations made thereunder shall be instituted except by or with the previous sanction of an Inspector.

FORM XI

ABSTRACT OF THE INDIAN DOCK LABOURERS REGULATIONS, 1948

Part I

2. Definitions.

(g) "process" includes all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it;

(m) "worker" means any persons employed in the processes.

3. Powers of Inspectors.—(1) An Inspector may, with such assistance (if any) as he thinks fit,—

(i) enter, inspect and examine at any time by day or night any premises or ship where the processes are carried on;

(ii) make such examination of the premises or ship and the machinery and gear, fixed or loose, used in the processes as he may deem necessary for carrying out the purposes of the Act;

(iii) require the production of any registers, certificates, notices and documents required to be kept in pursuance of the Act and Regulations and inspect, examine and copy any of them;

(iv) examine and take on the spot or otherwise such evidence of any person as he may deem necessary.

(2) The person having the general management and control of the premises and the owner, master, officer in charge or agents of the ship as the case may be shall furnish such means as may be required by an Inspector for entry, inspection, examination, inquiry, or otherwise for the exercise of his powers under the Act and Regulations in relation to that ship or premises.

4. *Duties of Inspectors.*—(a) An Inspector shall at each inspection of any premises or ship satisfy himself that the provisions made in the Act and Regulations are fully observed.

(b) An Inspector shall hold an enquiry into the causes of any accident which he has reason to believe was the result of the collapse or failure of lifting machinery or non-compliance with any of the provisions of the Act and Regulations.

(c) An Inspector shall ascertain at each inspection how far any defects disclosed at a previous inspection have been rectified and how far any orders previously issued by him have been complied with. His findings and any defects which may come to light during the current inspection, together with any orders passed by him under the Act or these Regulations shall be recorded in an Inspection Register maintained in accordance with clause (d) below.

An extract from the record including the orders of the Inspector together with any remarks he may wish to make or any defects found to exist in such ship, premises, lifting machinery or gear that he may wish to bring to notice shall be sent to the owner, master, officer in charge or agents of the ship or the person in general management and control of the premises, or the person who by himself, his agents, or his employers carries on the process, as the case may be in Form 'IX'.

(d) The Inspector shall keep and properly maintain a record of his inspections in a separate register specially maintained for the purpose.

5. *Penalties.*—Whoever being a person, whose duty it is to comply with any of these Regulations commits a breach of such Regulations shall be punishable with fine which may extend, in the case of breach of Regulations 59 and 61 to Rs. 200, and in any other case to Rs. 500, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

PART II

7. *Fencing of working places and approaches.*—(1) Every regular approach over a dock, wharf or quay which workers have to use for going to or from a working place at which the processes are carried on and every such working place on shore shall be maintained with due regard to the safety of the workers.

(2) In particular, the following parts shall, as far as is practicable having regard to the traffic and working be securely fenced so that the height of the fence shall be in no place less than two feet six inches, and the fencing shall be maintained in good condition ready for use:—

(a) all breaks, dangerous corners, and other dangerous parts or edges of a dock, wharf, or quay;

(b) both sides of such footways over bridges, caissons, and dock gates as are in general use by workers and each side of the entrance at each end of such footway for a sufficient distance not exceeding five yards;

Provided that in the case of fences which were constructed before the date of promulgation of these regulations, it shall be sufficient if the height of the fence is in no place less than two feet three inches.

PART III

19. *Lighting for processes on ships.*—When the processes are being carried on—

(a) the places in the hold and on the decks where work is being carried on,

(b) the means of access provided in pursuance of Regulations 16 and 17, and

(c) all part of the ship to which workers may be required to proceed in the course of their employment, shall be efficiently lighted, due regard being had to the safety of the ship and cargo, of all workers and of navigation of other vessels and to the provisions of any law and of any rules, regulations, orders or bye-laws having the force of law.

PART IV

33. *Maintenance and production of register and certificates.*—The register and the certificates attached to the register—

(a) shall be kept on the premises unless some other place has been approved in writing by an Inspector;

(b) shall be produced on demand before an Inspector; and

(c) shall be retained for at least four years after the date of the last entry.

34. *Machinery, etc., not to be brought into use until the necessary entries are made in the Register.*—No machinery, chain, rope or other gear in respect of which an entry is required to be made in the register in Form II, or in respect of which a certificate is required to be attached to such register whether as an alternative to an entry in Form II or otherwise, or in respect of which a certificate is required to be prepared,

shall be used unless and until the required entry has been made, or the required certificate has been so attached, or prepared, as the case may be.

35. Pulley blocks.—No pulley block shall be used in hoisting or lowering unless the safe working load is clearly stamped upon it.

36. Safe working load for chain and wire rope slings.—Means shall be provided to enable any person using a chain or wire rope sling to ascertain the safe working load for such chain or wire-rope sling under such conditions as it may be used. Such means shall consist:—

(a) as regards chains slings, of marking the safe working load in plain figures or letters upon the sling or upon a table or ring of durable material attached securely thereto, and

(b) as regards wire rope slings, of either the means specified in clause (a), or a notice or notices, so exhibited as to be easily read by any person concerned, stating the safe working loads for the various sizes of wire-ropes slings used.

37. Maintenance of chains.—Chains shall not be shortened by tying knots in them; and suitable packing shall be provided to prevent the links coming into contact, with sharp edges of loads of hard material.

38. Fencing of motors, etc.—All motors, cogwheels, chain and friction gearing, shafting, live electric conductors and steam pipes shall (unless it can be shown that by their position and construction they are equally safe to every worker as they would be if securely fenced) be securely fenced so far as is practicable without impeding the safe working of the ship and without infringing any rules, regulations, orders or bye-laws, having the force of law.

39. Precautions against accidental fall of loads.—(1) Cranes and winches shall be provided with such means as will reduce to a minimum the risk of the accidental descent of a load while being raised or lowered; in particular, the lever controlling the link motion reversing gear of a crane or winch shall be provided with a suitable spring or other locking arrangement.

(2) The end of a wire rope used for hoisting or lowering shall be securely attached to the winding drum of the winch by means of a clamp or other suitable means.

40. Fencing of and access to cranes.—The driver's platform on every crane or tip driven by mechanical power shall be securely fenced and shall be provided with safe means of access. In particular, where access is by a ladder—

(a) the sides of the ladder shall extend to a reasonable distance beyond the platform or some other suitable handhold shall be provided;

(b) the landing place on the platform shall be maintained free from obstruction;

(c) in cases where the ladder is vertical and exceeds thirty feet in height, a resting place shall be provided approximately midway between the platform and the foot of the ladder.

41. Safe working load for cranes etc.—Every crane and derrick shall have the safe working load plainly marked upon it, and every shore crane if so constructed that the safe working load may be varied by the raising or lowering of the jib or otherwise, shall have attached to it an automatic indicator or safe working loads, provided that in cases where the jib may be raised or lowered, provision on the crane of a table showing the safe working loads at the corresponding inclinations or radii of the jib shall be considered sufficient compliance.

42. Steam.—Adequate measures shall be taken to prevent exhaust steam from, and so far as is practicable live steam to, any crane or winch obscuring any part of the gangways, stages, wharf, or quay where any person is employed in the processes.

43. Derricks.—Appropriate measures shall be taken to prevent the foot of a derrick being accidentally lifted out of its socket or support.

PART V

44. Responsibilities.—It shall be the duty of every person who by himself, his agents, or employees carries on the process, and of all agents, employees and workers employed by him in the process, to comply with Regulations 45 to 57:

Provided that, where the processes are carried on by a stevedore or other person other than the owner of the ship, it shall be the duty of the owner, master or officer in charge of the ship to comply with regulation 50 so far as it concerns—

(1) any hatch not taken over by the said stevedore or other person for the purpose of the processes, and,

(2) any hatch which, after having been taken over by the said stevedore or other person for the purpose of the processes—

(i) has been reported by written notice in Form I to the owner, master or officer in charge of the ship, by or on behalf of the said stevedore or other person as being a hatch at which the processes have been completed or completed for the time being, and

(ii) either has been left by the said stevedore or other person fenced or covered as required by Regulation 50 or has been taken into use by or on behalf of the owner of the ship, and in either case has been so reported by such written notice as aforesaid,

It shall be the duty of the owner, master or officer in charge of the ship to give immediately a written acknowledgment in Form I of such written notice as aforesaid.

45. Escape from hold, etc.—Precautions shall be taken to facilitate the escape of the workers when employed in a hold or on, between decks in dealing with coal or other bulk cargo

45-A. Access to and from undecked vessels.—When, in a vessel which is not decked, workers have to carry on the processes in a hold, the depth of which exceeds 5 feet, there shall be safe means of access to and from the hold for their use, and when a ladder is to be used in

the hold, it shall be equipped at the top with hooks or other means for firmly securing it.

46. Loading of lifting machinery.—(1) No lifting machinery, chains or other lifting appliance shall be loaded beyond the safe working load:

Provided that a crane may be loaded beyond the safe working load in exceptional cases to such extent and subject to such conditions as may be approved by the engineer in charge or other competent person, if on each occasion—

(a) the written permission of the owner or his responsible agent has been obtained, and

(b) a record of the overload is kept:

Provided also that, where the load upon a single sheave, pulley block is attached to the pulley block instead of to the chain or rope passing round the sheave, the load on the pulley block shall be deemed for the purpose of this regulation to be half the actual load.

(2) No load shall be left suspended from a crane, winch, or other machine unless there is a competent person actually in charge of the machine while the load is so left.

47. Drivers of cranes, etc.—No person under 18 years of age and no person who is not sufficiently competent and reliable shall be employed as driver of a crane or winch, whether driven by mechanical power or otherwise, or to give signals to a driver or to attend to cargo falls on winch-ends or winch-bodies.

48. Passages to be kept clear.—Where goods are placed on a wharf or quay—

(a) a clear passage leading to the means of access to the ship required by regulation 11 shall be maintained on the wharf or quay; and

(b) if any space is left along the edge of the wharf or quay, it shall be at least three feet wide and clear of all obstructions other than fixed structures, plant and appliances in use.

49. Deck and cargo-stages.—(1) No deck-stage or cargo-stage shall be used in the process unless it is substantially and finally constructed and adequately supported and, where necessary, securely fastened.

(2) No truck shall be used for carrying cargo between ship and shore on a stage so steep as to be unsafe.

(3) Any stage which is slippery shall be made safe by the use of sand or otherwise.

50. Hatches not in use.—(1) If any hatch of a hold accessible to any worker and exceeding five feet in depth, measured from the level of the deck in which the hatch is situated to the bottom of the hold, is not in use for the passage of goods, coal or other material, or for trimming, and the coamings are less than two feet six inches in height, such hatch shall either be fenced to a height of three feet or be securely covered and similar measures shall be taken, when necessary to protect all other openings in a deck which might be dangerous to the workers:

Provided that this requirement shall not apply (i) to vessels not exceeding 200 tons net registered tonnage which have only one *hatchway*, and (ii) to any vessels during meal times or other short interruptions of work during the period of employment.

(2) *Hatch coverings* shall not be used in the construction of deck or cargo stages, or for any other purpose which may expose them to damage.

(3) *Hatch coverings* shall be replaced on the hatches in the positions indicated by the markings made thereon in pursuance of Regulation 21.

51. Handling at intermediate decks.—No cargo shall be loaded or unloaded by a fall or sling at any intermediate deck unless either the *hatch* at that deck is securely covered or a secure landing platform of a width not less than that of one section of *hatch coverings* has been placed across it:

Provided that this regulation shall not apply to any process of unloading the whole of which will be completed within a period of half an hour.

52. Hooks for bales, etc.—When the working space in a hold is confined to the square of the hatch, hooks shall not be made fast in the bands of fastenings of bales of cotton, wool, cork, gunny bages or other similar goods, nor shall can hooks be used for raising or lowering a barrel when, owing to the construction or condition of the barrel or of the hooks, their use is likely to be unsafe.

Nothing in this regulation shall apply to breaking out or making up slings.

53. Skeleton decks.—When work is proceeding on any skeleton deck, adequate staging shall be provided unless the space beneath the deck is filled with cargo to within a distance of two feet of such deck.

54. Stowing and unstowing.—Where stacking, unstacking, handling, stowing or unstowing of cargo or in connection therewith cannot be safely carried out unaided reasonable measures to guard against accident shall be taken by shoring or otherwise.

55. Hatches in use.—(1) All hatch covers exceeding 125 lbs. in weight and all beams of any hatch in use shall be handled with the help of a winch or crane or other mechanical means.

(2) The beams of any hatch in use for the process, shall, if not removed be adequately secured to prevent their displacement.

* * * *

57. Transport of workers.—When any worker has to proceed to or from a ship by water for the purpose of carrying on the processes, proper measures shall be taken to provide for his safe transport. Vessels used for this purpose shall be in charge of a competent person, shall not be over-crowded and shall be properly equipped for safe navigation and maintained in good condition.

PART VI

58. Removal of fencing, safety appliances, etc.—(1) No person shall, unless duly authorised or in case of any emergency remove or interfere with any fencing, gangway, gear, ladder, hatch, covering, life-saving means or appliances, lights, marks stages or other things whatsoever required by these Regulations to be provided. If removed, such things shall be restored at the end of the period during which their removal was authorised or at the end of the emergency as the case may be by the persons last engaged in the work that necessitated such removal.

(2) The fencing required by regulation 7 shall not be removed except to the extent and for the period reasonably necessary for carrying on the work of the dock or ship, or for repairing any fencing. If removed, it shall be restored forthwith at the end of that period by the persons engaged in the work that necessitated its removal.

59. Workers to use proper means of access.—Every worker shall use the means of access provided in accordance with regulations 16, 17 and 18, and no person shall authorise or order another to use means of access other than those provided in accordance therewith.

60. Persons not to go upon beams for adjusting gear.—No person shall go upon the fore and aft beams or thwart-ship beams for the purpose of adjusting the gear for lifting them on and off nor shall any person authorise or order another to do so.

PART VII

61. Employers' responsibility for machinery, etc.—No employer shall allow the use by workers of machinery or gear which does not comply with the regulations in Part IV.

62. Employers' responsibility for safe access and lighting.—If the persons whose duty it is to comply with regulations 16, 17 and 19 fail so to do, then it shall also be the duty of the employers of the workers for whose use the means of access and the lights are required, to comply with the said regulations within the shortest time reasonably practicable after such failure.

* * * *

SCHEDULE II

MANNER OF TEST AND EXAMINATION BEFORE TAKING LIFTING MACHINERY AND GEAR INTO USE.

Regulations 27(1), 29(1) and 30(1).—(a) Every winch with the whole of the gear accessory thereto (including derricks, goose necks, eye plates, eye-bolts or other attachments) shall be tested with a proof load which shall exceed the safe working load as follows:—

Safe working load	Proof load.
Upto 20 tons	25 per cent. in excess.
20—50 tons	5 tons in excess.
Over 50 tons	10 per cent. in excess.

The proof load shall be applied either (I) by hoisting movable weights or (II) by means of a spring or hydraulic balance or similar appliance, with the derrick, at an angle to the horizontal which shall be stated in the certificate of the test. In the former case, after the movable weights have been hoisted, the derrick shall be swung as far as possible in both directions. In the latter case, the proof load shall be applied with the derrick swung as far as practicable first in one direction and then in the other.

(b) Every crane and other hoisting machine with its necessary gear shall be tested with a proof load which shall exceed the safe working load as follows:—

Safe working load	Proof load.
Upto 20 tons	25 per cent. in excess.
20—25 tons	5 tons in excess.
Over 50 tons	10 per cent. in excess.

The said proof load shall be hoisted and swung as far as possible in both directions. In the case of a jib-crane if the jib has a variable radius, it shall be tested with a proof load as defined above at the maximum and minimum radii of the jib. In the case of hydraulic cranes or hoists, where, owing to the limitation of pressure, it is impossible to hoist a load 25 per cent. in excess of the safe working load, it shall be sufficient to hoist the greatest possible load.

(c) Every article of loose gear (whether it is necessary to a machine or not) shall be tested with a proof load at least equal to that shown against the article in the following table:—

Article of Gear	Proof load
Pitched chains used with hand operated Pulley Blocks and Rings, Hooks, Shackles or Swivels permanently attached thereto.	One and a half times the safe working load.
Other chains	Twice the safe working load.
Other Rings	
Other Hooks	
Other Shackles	
Other Swivels	

Hand operated Pulley Blocks used with pitched Chains and Rings, Hooks, Shackles or Swivels permanently attached thereto	One and a half times the safe working load.
Other Pulley Blocks— Single Sheave Block	Four times the safe working load.
Multiple Sheave Block with safe working load up to and including 20 tons	Twice the safe working load.
Multiple Sheave Block with safe working load over 20 tons up to and including 40 tons	Twenty tons in excess of the safe working load.
Multiple Sheave Block with the safe working load over 40 tons	One and a half times the safe working load.

Provided that where an Inspector is of opinion that, owing to the size, design, construction, material or use of any such loose gear or class of such gear, any of the above requirements are not necessary for the protection of workers, he may by certificate in writing (which he may in his discretion revoke), and subject to confirmation by the Central Government exempt such gear or class of gear from such requirement, subject to such conditions as may be stated in the certificate.

(d) After being tested as aforesaid, all machines with the whole of the gear necessary thereto and all loose gear shall be examined, the sheaves and the pins of the pulley blocks being removed for the purpose, to see that no part is injured or permanently deformed by the test.

(e) In the case of wire rope, a sample shall be tested to destruction and the safe working load shall not exceed one fifth of the breaking load of the sample tested.

FORM XII

To be sent to Inspector, Docks Safety

Address.....

REPORT OF ACCIDENT OR DANGEROUS OCCURRENCE

(Required by Regulation 12 of the Indian Dock Labourers Regulations, 1948 in pursuance of Section 5(r)(t) of the Indian Dock Labourers Act, 1934)

(See Instructions overleaf).

1. Name of Employer

2. Address of employer

3. Ship, or other exact place where accident or dangerous occurrence happened
4. Date and hour of accident or dangerous occurrence.....
5. (1) Name and address of injured person
- Sex.....Age.....Occupation.....
- (2) Nature and extent of injuries (*e.g.* fatal, loss of finger, fracture of leg).....
- (3) By whom treatment was given
- (4) Is injured person likely to be disabled for more than 48 hours
- (5) Hour at which injured person started work
- (6) Cause of accident or dangerous occurrence
- (7) Accident:
- (a) If caused by machinery, state:—
- (i) Name of machine and part causing accident
- (ii) If moved by mechanical power at the time.....
- (b) State exactly what injured person was doing.....
6. Dangerous occurrence:
- (a) Nature of collapse or failure of lifting machinery.....
- (b) Nature of breakage of rope, chain or other appliances.....
- Signature
- Date.....

(to be filled in by Inspector)

Port.....

Date of Receipt Accident/Dangerous

Occurrence No.:

Causation.

Sex

Remarks

INSTRUCTIONS

REPORTS OF ACCIDENTS AND DANGEROUS OCCURRENCES

- (1) Whenever any accident occurs which either—
 - (a) causes loss of life to a worker, or
 - (b) causes such severe injury to a worker that there is no reasonable hope that he will be able to return to work within 48 hours,
- notice of the accident shall forthwith be sent by telegram, telephone or special messenger within four hours of the occurrence, to
- (i) the Inspector notified for the purpose:
 - (ii) the relatives of
 - (a) the deceased person, in case of fatal accident; and
 - (b) the injured person, in case the injury is of such a serious

nature that the worker is likely to be prevented from returning to duty within ten days; and

(iii) in the case of fatal accidents only,

(a) the officer-in-charge of the nearest Police Station, and

(b) the District Magistrate or if the District Magistrate by order so directs, the Sub-Divisional Magistrate:

Provided that a notice of any accident of which notice is sent in accordance with the requirements of the Explosives Act, 1884, or the Petroleum Act, 1934, need not be sent in accordance with the requirements of this regulation.

In cases of sub-clause (b) of clause (1) above, the injured person shall be given first-aid and thereafter immediately conveyed to a hospital or other place of treatment.

(2) Where any accident causing disablement is notified under this regulation and after notification thereof results in the death of the person disabled, notice in writing of the death shall be sent to the authorities mentioned in clause (1) immediately the death occurs.

(3) The following classes of dangerous occurrences shall forthwith be reported to the Inspector in the manner prescribed in clause (1), whether personal injury or disablement is caused or not:—

(i) collapse or failure of lifting machinery;

(ii) breakages of ropes, chains or other appliances used in raising or lowering of persons or goods; and

(iii) collapse or failure of means of access to or from a ship.

(4) The notice so given under clause (1) or clause (3) shall be confirmed within 48 hours of the occurrence by sending a written report to the Inspector in Form XII.]

THE DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT, 1948.

CONTENTS.

SECTIONS.

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2. Definitions.
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SECTIONS.

4. Making, variation and revocation of schemes.
5. Advisory Committees.
6. Inspectors.
7. Cognizance of offences.

THE DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT, 1948.

Act No. IX of 1948¹.

[4th March, 1948.]

An Act to provide for regulating the employment of dock workers.

WHEREAS it is expedient to provide for regulating the employment of dock workers;

¹For Statement of Objects and Reasons, see Gazette of India, dated 22nd November, 1947, Part V, p. 432; and for Report of Select Committee, see Gazette of India, dated 7th February, 1948, Part V, p. 4.

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Dock Workers (Regulation of Employment) Act, 1948.

(2) It extends to ²[the whole of India] except the State of Jammu and Kashmir].

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "cargo" includes anything carried or to be carried in a ship or other vessel;

(b) "Dock worker" means a person employed or to be employed in, or in the vicinity of, any port on work in connection with the loading, unloading, movement or storage of cargoes, or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or leaving port;

(c) "employer," in relation to a dock worker, means the person by whom he is employed or to be employed as aforesaid;

(d) "Government" means, in relation to any major port, the Central Government and, in relation to any other port, the ³[State Government];

(e) "scheme" means a scheme made under this Act.

3. *Scheme for ensuring regular employment of workers.*—(1) Provision may be made by a scheme for the registration of dock workers with a view to ensuring greater regularity of employment and for regulating the employment of dock workers, whether registered or not, in a port.

(2) In particular, a scheme may provide—

(a) for the application of the scheme to such classes of dock workers and employers as may be specified therein;

(b) for defining the obligations of dock workers and employers subject to the fulfilment of which the scheme may apply to them and the circumstances in which the scheme shall cease to apply to any dock workers or employers;

(c) for regulating the recruitment and entry into the scheme of dock workers, and their registration, including the maintenance of registers, the removal, either temporarily or permanently, of names from the registers and the imposition of fees for registration;

(d) for regulating the employment of dock workers, whether registered or not, and the terms and conditions of such employment, including rates of remuneration, hours of work and conditions as to holidays and pay in respect thereof;

(e) for securing that, in respect of periods during which employment, or full employment, is not available for dock workers to whom

²Subs. for "all the Provinces of India" by I. A. O., 1950.

³Subs. for "except Part B States" by the Part B States (Laws) Act 3 of

1951

⁴Subs. for "Provincial Government" by I. A. O., 1950.

the scheme applies and who are available for work, such workers will, subject to the conditions of the scheme, receive a minimum pay;

(f) for prohibiting, restricting or otherwise controlling the employment of dock workers to whom the scheme does not apply and the employment of dock workers by employers to whom the scheme does not apply;

(g) for the training and welfare of dock workers, in so far as satisfactory provision therefor does not exist apart from the scheme;

(h) for health and safety measures in places where dock workers are employed, in so far as satisfactory provision therefor does not exist apart from the scheme;

(i) for the manner in which, and the persons by whom, the cost of operating the scheme is to be defrayed;

[(j) for constituting, whether as a body corporate or otherwise, the authority to be responsible for the administration of the scheme;]

(k) for such incidental and supplementary matters as may be necessary or expedient for the purposes of the scheme.

(3) A scheme may further provide that a contravention of any provision thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months in respect of a first contravention or six months in respect of any subsequent contravention, or with fine which may extend to such amount as may be specified but in no case exceeding five hundred rupees in respect of a first contravention or one thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid.

4. *Making, variation and revocation of schemes.*—(1) The Government may, by notification in the official Gazette and subject to the condition of previous publication, make one or more schemes^a for a port or group of ports, and may in the like manner and subject to the like condition add to, amend, vary or revoke any scheme made by it.

(2) The provisions of section 23 of the General Clauses Act, 1897 (X of 1897) shall apply to the exercise of a power given by sub-section (1) as they apply to the exercise of a power given by a Central Act to make rules subject to the condition of previous publication.

(3) The Government may direct the port authority of any port to prepare, in accordance with such instructions as may from time to time be given to it, one or more draft schemes for the port, and the port authority shall comply with such direction.

^aSubs. for original cl. (j) by the Dock Workers (Regulation of Employment) Amendment Act 29 of 1949.

^bFor such schemes see—

(i) The Calcutta Dock Workers (Regulation of Employment) Scheme, 1951.

(ii) The Bombay Dock Workers (Regulation of Employment) Scheme, 1951, (*vide* Gazette of India, dated 27th January, 1951, Pt. II—Sec. 3, pp. 118-120).

(iii) The Madras Dock Workers (Regulation of Employment) Scheme, 1952, (*vide* Gazette of India, dated 8th March, 1952, Pt. II—Sec. 3, pp. 388-398).

5. Advisory Committees.—(1) The Government may, or if it decides to make any scheme under section 4, shall constitute an Advisory Committee, to advise upon such matters arising out of the administration of this Act or any scheme made thereunder as the Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the Government, and shall be of such number (not exceeding fifteen) and chosen in such manner as may be prescribed by rules made under sub-section (5) :

Provided that the Advisory Committee shall include an equal number of members representing—

- (i) the Government,
- (ii) the dock workers,
- (iii) the employers of dock workers.

(3) The Chairman of the Advisory Committee shall be one of the members appointed to represent the Government, nominated in this behalf by the Government.

(4) The Government shall publish in the official Gazette the names of all members of the Advisory Committee.

(5) The Government may, by notification in the official Gazette, make rules⁷ to provide for—

- (a) the composition of the Advisory Committee;
- (b) the manner in which its members shall be chosen;
- (c) the term of office of its members;
- (d) the allowances, if any, payable to the members of the

Committee;

(e) the manner in which the Committee shall conduct its business including the number of members to be present at a meeting thereof in order to constitute a quorum.

6. Inspectors.—(1) The Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act at such ports as may be specified in the notification.

(2) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860 (XLV of 1860).

(3) An Inspector may, at any port for which he is appointed,—

(a) enter, with such assistance (if any) as he thinks fit, any premises or vessel where dock workers are employed;

(b) require any authority or person to produce any register, muster-roll or other document relating to the employment of dock workers, and examine such document;

(c) take on the spot or otherwise the evidence of any person for the purpose of ascertaining whether the provisions of any scheme made for the port are, or have been, complied with.

⁷For such rules, viz., the Dock Workers (Advisory Committee) Rules, 1949, see Gazette of India, dated 11th June, 1949, Pt. I, p. 747, and see also pp. 227-230, *Infra*.

(4) The Government may, by notification in the official Gazette prescribe the manner in which and the persons by whom complaints regarding contravention of any provision of a scheme may be made to an Inspector and the duties of the Inspector in relation to such complaints.

7. *Cognizance of offences.*—(1) No Court shall take cognizance of any offence made punishable by a scheme or of any abetment thereof, except on a report in writing of the facts constituting such offence or abetment made by an Inspector or by a person specially authorised in this behalf by the Government.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence made punishable by a scheme or an abetment thereof shall be triable only by a Presidency Magistrate or a Magistrate of the first class.

THE DOCK WORKERS (ADVISORY COMMITTEE) RULES, 1949¹.

1. *Short title and extent.*—(1) These Rules may be called the Dock Workers (Advisory Committee) Rules, 1949.

(2) They extend to all the major ports of India.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context:—

(a) 'Act' means the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948).

(b) "Chairman" means the Chairman of the Dock Workers Advisory Committee.

(c) "Committee" means the Dock Workers Advisory Committee.

(d) "Member" means a member of the Dock Workers Advisory Committee.

COMPOSITION, FUNCTIONS, ETC., OF THE COMMITTEE

3. *Constitution.*—The Committee shall consist of fifteen members to be appointed by the Central Government, namely:—

(1) five members representing the Central Government, three of whom shall be appointed on the recommendation, respectively, of the [State Governments] of Bombay, Madras and West Bengal and two shall be appointed on the recommendation, respectively, of the Ministry of Labour and the Ministry of Transport of the Central Government;

²[(2) five members representing the employers of dock workers, three of whom shall be appointed on the recommendation, respectively,

¹See Ministry of Labour Notification No. LR. 21(22), dated 1st June, 1949.

²Subs. for "Provincial Governments" by I. A. O., 1950.

³Subs. for former sub-rule (2) by Notification No. Fac. 73(10), dated 11th February, 1950, see Gazette of India, d/- 18th February, 1950, Pt. I—Sec. 1, p. 247.

of the Bombay Port Trust, the Madras Port Trust and the Port Commissioners of Calcutta and the remaining two in consultation with such organisations of stevedores at Bombay and Calcutta as the Central Government may consider appropriate; and]

(3) five members representing the dock workers who shall be appointed in consultation with such unions of dock workers as the Central Government may consider appropriate.

4. *Functions.*—The Committee shall advise the Central Government upon such matters arising out of the administration of the Act or any scheme made thereunder as the Central Government may refer to it for advice.

5. *Term of office of members.*—A member shall, unless he resigns his office or dies at an earlier date, hold office for a period of three years from the date of the nomination appointing him as a member and shall be eligible for reappointment:

Provided that an outgoing member shall continue in office until the appointment of his successor is notified in the official Gazette.

6. *Casual vacancy.*—A member appointed to fill a casual vacancy shall hold office for as long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred.

7. *Resignation of members.*—(1) A member, other than the Chairman may resign his office by a letter in writing addressed to the Chairman.

(2) The Chairman may resign his office by a letter addressed to the Central Government.

(3) If a member proposes to proceed out of India, he shall, before doing so, intimate to the Chairman, the anticipated date of his departure from and of his return to India and, if he intends to be absent from India for a period exceeding six months, he shall tender his resignation.

(4) A member shall be deemed to have vacated his office:—

(a) if he proceeds out of India without complying with the provisions of sub-rule (3);

(b) if he becomes an insolvent;

(c) if he is convicted of any offence which, in the opinion of the Central Government, involves moral turpitude;

(d) if he is absent from three consecutive meetings of the Committee without leave of absence from the Chairman;

(e) if, in the opinion of the Central Government, a member who was appointed to represent dock workers or their employers ceases to be representative of dock workers or their employers, as the case may be; or

(f) if, in the opinion of the Central Government, it is undesirable that he should continue to be a member.

8. *Head-quarters.*—The Head-quarters of the Committee shall be at such place as may be fixed by the Central Government.

CONDUCT OF BUSINESS OF THE COMMITTEE.

9. *Meetings.*—(1) Every matter referred to the Committee for advice shall be considered either at a meeting of the Committee, or, if the Chairman so directs, by circulation of the necessary papers for opinion to every member who is present in India at the time:

Provided that any member may request that the matter be considered at a meeting of the Committee and thereupon the Chairman may, and if the request is made by three or more members shall, direct that it be so considered.

(2) The Committee shall meet at such places and times as may be appointed by the Chairman.

(3) The Chairman shall preside over every meeting of the Committee at which he is present and in his absence the members present shall elect one of their number to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman.

(4) No business shall be transacted at a meeting of the Committee unless at least three members are present:

Provided that if at any meeting less than three members are present, the Chairman may adjourn the meeting to a date not less than seven days later, informing the members present and notifying other members that he proposes to dispose of the business at the adjourned meeting whether there is the prescribed quorum or not and it shall thereupon be lawful for him to dispose of the business at the adjourned meeting irrespective of the number of members attending.

(5) Every question at a meeting of the Committee shall be decided by a majority of votes of the members present and voting, provided that a member shall in all cases have the right to have his note of dissent recorded.

(6) Every question referred to the members for opinion under sub-rule (1) shall, unless the Chairman in pursuance of the proviso of that sub-rule reserves it for consideration at a meeting, be decided in accordance with the opinion of the majority of the members recording opinion within the time allowed for it.

(7) In the case of an equal division of votes or opinions, as the case may be, the Chairman shall have a second or casting vote or opinion.

10. *Notice of meetings and list of business.*—(1) Notice shall be given to every member present in India of the time and place fixed for each meeting at least fifteen days before the date of such meeting and each member shall be furnished with a list of business to be disposed of at the meeting:

Provided that when an emergent meeting is called by the Chairman, it shall not be necessary to give more than five days' notice.

(2) No business which is not on the list of business shall be considered at a meeting without permission of the Chairman.

11. Minutes of meetings.—The minutes of each meeting of the Committee shall be circulated to all members present in India as soon as possible after the meeting, shall be read out and confirmed at the next meeting of the Committee, shall be signed by the Chairman or the member presiding, as the case may be, and shall thereafter be recorded in a minute book.

12. Power to invite experts to meetings.—The Chairman may invite one or more experts to be present at any meeting and to participate in the discussion of any technical matter, but such experts shall not be entitled to vote.

ALLOWANCES OF MEMBERS.

13. Every non-official member and any expert invited to attend a meeting of the Committee under Rule 12, shall be entitled to the following allowances:—

(1) if he is usually resident at the place of meeting, the actual cost of conveyance hire, subject to maximum of Rs. 10 per day; or

(2) if he is not usually resident at the place of meeting and he certifies in writing that he has not drawn any travelling or daily allowance in respect of the journey and the halts from any other source:—

(i) *Travelling allowance*—

(a) in respect of journeys by air—one and one-fourth the actual fare paid;

(b) in respect of journeys by train—one and a half first class fare;

(c) in respect of journeys by road, etc.—the rates of mileage allowance admissible to Central Government Officers of the First Grade.

(ii) *Daily allowance*—

(a) At rates admissible to Central Government Officers of the First Grade:

(b) Daily allowance will also be admissible in respect of one day previous to the commencement of the meeting if the member arrives at the place of the meeting in the forenoon of that day and one day after its termination if he leaves the place of meeting in the afternoon of that day.

14. The Chairman shall be the Controlling Officer in respect of the bills for the allowances admissible under Rule 13.

THE EMPLOYEES' PROVIDENT FUNDS ACT, 1952.

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SECTIONS.

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SCHEDULE I.

SCHEDULE II.

THE EMPLOYEES' PROVIDENT FUNDS ACT, 1952.

No. XIX of 1952¹

[4th March, 1952.]

An Act to provide for the institution of provident funds for employees in factories and other establishments.

BE it enacted by Parliament as follows:—

1. *Short title, extent and application.*—(1) This Act may be called the Employees' Provident Funds Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) Subject to the provisions contained in section 16, it applies in the first instance to all factories engaged in any industry specified in Schedule I in which fifty or more persons are employed, but the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to all factories employing such number of persons less than fifty as may be specified in the notification and engaged in any such industry.

¹For Statement of Objects and Reasons, see Gazette of India, 1952, Pt. II—Sec. 2, p. 67.

The Act was temporarily amended by the Employees' Provident Funds (Am.) Ordinance 1 of 1953 which has since been repealed by the Employees' Provident Funds (Am.) Act 37 of 1953; see sec. 19 of Act 37 of 1953.

*[(4) Notwithstanding anything contained in sub-section (3) of this section or sub-section (1) of section 16, where it appears to the Central Government, whether on an application made to it in this behalf or otherwise, that the employer and the majority of employees in relation to any factory have agreed that the provisions of this Act should be made applicable to the factory, it may, by notification in the Official Gazette, apply the provisions of this Act to that factory.]

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means—

(i) in relation to a factory engaged in a controlled industry or in an industry connected with a mine or an oilfield, the Central Government, and

(ii) in relation to any other factory, the State Government;

(b) "basic wages" means all emoluments which are earned by an employee while on duty or on leave with wages in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include—

(i) the cash value of any food concession;

(ii) any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house-rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;

(iii) any presents made by the employer;

(c) "contribution" means a contribution payable in respect of a member under a Scheme;

(d) "controlled industry" means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest;

(e) "employer" in relation to a factory means the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (LXIII of 1948), the person so named;

(f) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of a factory, and who gets his wages directly or indirectly from the employer, and includes any person employed by or through a contractor in or in connection with the work of the factory;

*[(ff) "exempted employee" means an employee to whom a Scheme would, but for the exemption granted under sub-section (1) of section 17, have applied;

(fff) "exempted factory" means a factory in respect of which an exemption has been granted under section 17 from the operation of

*Added by the Employees' Provident Funds (Am.) Act 37 of 1953.

*Inserted by Act 37 1953.

all or any of the provisions of any Scheme, whether such exemption has been granted to the factory as such or to any person or class of persons employed therein;]

(g) "factory" means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on, whether with the aid of power or without the aid of power;

(h) "Fund" means the provident fund established under a Scheme;

(i) "industry" means any industry specified in Schedule I, and includes any other industry added to the Schedule by notification under section 4;

[(ia) "manufacture" means making, altering, ornamenting, finishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;]

(j) "member" means a member of the Fund;

(k) "occupier of a factory" means the person who has ultimate control over the affairs of the factory, and, where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;

(l) "Scheme" means a Scheme framed under this Act.

3. *Power to apply Act to establishment which has a common provident fund with a factory.*—Where immediately before this Act becomes applicable to a factory there is in existence a provident fund which is common to the employees employed in a factory to which this Act applies and employees in any other establishment, the Central Government may, by notification in the Official Gazette, direct that the provisions of this Act shall also apply to that establishment, and thereupon the establishment shall be deemed to be a factory for all the purposes of this Act.

4. *Power to add to Schedule I.*—(1) The Central Government may, by notification in the Official Gazette, add to Schedule I any other industry in respect of the employees whereof it is of opinion that a provident fund scheme should be framed under this Act, and thereupon the industry so added shall be deemed to be an industry specified in Schedule I for the purposes of this Act.

(2) All notifications under sub-section (1) shall be laid before Parliament, as soon as may be, after they are issued.

5. *Employees' Provident Fund Schemes.*—[(1)] The Central Government may, by notification in the Official Gazette, frame a Scheme to be called the Employees' Provident Fund Scheme for the

¹Inserted by Act 37 of 1953.

²Sec. 5 renumbered as sub-sec. (1) thereof by Act 37 of 1953.

³For the Employees' Provident Fund Scheme, 1952, see Notification No. S. R. O. 1509, dated 2nd September, 1952, pub. in Gazette of India, Extraordinary, dated 2nd September, 1952, Pt. II—Sec. 3, pp. 807-831. See also p. 244 et seq. *Infra*.

establishment of provident funds under this Act for employees or for any class of employees and specify the factories or class of factories to which the said Scheme shall apply * [and there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme.]

† [(2) A Scheme framed under sub-section (1) may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the Scheme.]

6. *Contributions and matters which may be provided for in Schemes.*—(1) The contribution which shall be paid by the employer to the Fund shall be six and a quarter per cent. of the basic wages and the dearness allowance for the time being payable to each of the employees, and the employee's contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires and if the Scheme makes provision therefor, be an amount not exceeding eight and one-third per cent. of his basic wages and dearness allowance:

Provided that where the amount of any contribution payable under this Act involves a fraction of a rupee, the Scheme may provide for the rounding off of such fraction to the nearest rupee, half of a rupee or quarter of a rupee.

Explanation.—For the purposes of this sub-section, dearness allowance shall be deemed to include also the cash value of any food concession allowed to the employee.

(2) Subject to the provisions contained in sub-section (1), any Scheme may provide for all or any of the matters specified in Schedule II.

‡ [(3) Where under the provisions of any Scheme, any board of trustees is constituted for administering the Fund, such board of trustees shall be a body corporate under the name specified in the Scheme, having perpetual succession and a common seal and shall by the said name sue and be sued.]

7. *Modification of Scheme.*—(1) The Central Government may, by notification in the Official Gazette, add to, amend or vary any Scheme framed under this Act.

(2) All notifications under sub-section (1) shall be laid before Parliament, as soon as may be, after they are issued.

§ [8. *Mode of recovery of moneys due from employers.*—Any amount due—

(a) from the employer in relation to a factory to which any Scheme applies in respect of any contribution payable to the Fund, damages recoverable under section 14B, accumulations required to be transferred under sub-section (2) of section 15 or any charges payable by him

* Added by Act 37 of 1953.

† Inserted by *ibid.*

‡ Inserted by *ibid.*

§ Subs. for original sec. 8 by *ibid.*

under any other provision of this Act or of any provision of the Scheme, or

(b) from the employer in relation to an exempted factory in respect of any damages recoverable under section 14B or any charges payable by him to the appropriate Government under any provision of this Act or under any of the conditions specified under section 17, may, if the amount is in arrear, be recovered by the appropriate Government in the same manner as an arrear of land revenue.]

9. *Fund to be recognised under Act XI of 1922.*—For the purposes of the Indian Income-tax Act, 1922 (XI of 1922), the Fund shall be deemed to be a recognised provident fund within the meaning of Chapter IXA of that Act.

¹[Provided that nothing contained in the said Chapter shall operate to render ineffective any provision of the Scheme (under which the Fund is established) which is repugnant to any of the provisions of that Chapter or of the rules made thereunder.]

10. *Protection against attachment.*—(1) The amount standing to the credit of any member in the Fund ²[or of any exempted employee in a provident fund] shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member ³[or the exempted employee], and neither the official assignee appointed under the Presidency-towns Insolvency Act 1909 (III of 1909), nor any receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920), shall be entitled to, or have any claim on, any such amount.

⁴[(2) Any amount standing to the credit of a member in the Fund or of an exempted employee in a provident fund at the time of his death and payable to his nominee under the Scheme or the rules of the provident fund shall, subject to any deduction authorised by the said Scheme or rules, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member or of the exempted employee.]

11. *Priority of payment of contributions over other debts.*—⁴[Where any employer is adjudicated insolvent or, being a company, an order for winding up is made, the amount due—

(a) from the employer in relation to a factory to which any Scheme applies in respect of any contribution payable to the Fund, damages recoverable under section 14B, accumulations required to be transferred under sub-section (2) of section 15 or any charges payable by him under any other provision of this Act or of any provision of the Scheme; or

¹Added by *ibid.*

²Inserted by *ibid.*

³Subs. for original sub-sec. (2) by *ibid.*

⁴Subs. for certain words by Act 37 of 1953.

(b) from the employer in relation to an exempted factory in respect of any contribution to the provident fund (in so far as it relates to exempted employees), under the rules of the provident fund, damages recoverable under section 14B or any charges payable by him to the appropriate Government under any provision of this Act or under any of the conditions specified under section 17,

shall, where the liability therefor has accrued before the order of adjudication or winding up is made, be deemed to be included] among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909) or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920) or under section 230 of the Indian Companies Act, 1913 (VII of 1913) are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

^a[12. *Employer not to reduce wages, etc.*—No employer in relation to a factory to which any Scheme applies shall, by reason only of his liability for the payment of any contribution to the Fund or any charges under this Act or the Scheme, reduce, whether directly or indirectly, the wages of any employee to whom the Scheme applies or the total quantum of benefits in the nature of old age pension, gratuity or provident fund to which the employee is entitled under the terms of his employment, express or implied.]

13. *Inspectors.*—(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act or of any Scheme, and may define their jurisdiction.

(2) Any Inspector appointed under sub-section (1) may, for the purpose of inquiring into the correctness of any information furnished in connection with this Act or with any Scheme or for the purpose of ascertaining whether any of the provisions of this Act or of any Scheme have been complied with ^a[in respect of a factory to which any Scheme applies or for the purpose of ascertaining whether the provisions of this Act or any Scheme are applicable to any factory to which the Scheme has not been applied or for the purpose of determining whether the conditions subject to which exemption was granted under section 17 are being complied with by the employer in relation to an exempted factory]—

(a) require an employer to furnish such information as he may consider necessary ^b[* * * *];

(b) at any reasonable time enter any factory or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers

^aSubs. for original sec. 12 by *ibid.*

^bIns. by *ibid.*

^c"in relation to the Scheme" omitted by *ibid.*

and other documents relating to the employment of persons or the payment of wages in the factory;

(c) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the factory or any premises connected therewith or whom the Inspector has reasonable cause to believe to be or to have been, an employee in the factory;

(d) make copies of, or take extracts from, any book, register or other documents maintained in relation to the factory;

(e) exercise such other powers as the Scheme may provide.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

14. Penalties.—(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or under any Scheme or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) A Scheme framed under this Act may provide that any person who contravenes, or makes default in complying with, any of the provisions thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

[(2A) Whoever contravenes or makes default in complying with any provision of this Act or of any condition subject to which exemption was granted under section 17 shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.]

(3) No court shall take cognizance of any offence punishable under this Act or under any Scheme except on a report in writing of the facts constituting such offence made with the previous sanction of such authority as may be specified in this behalf by the appropriate Government, by an Inspector appointed under section 13.

*[14A. *Offences by companies.*—(1) If the person committing an offence under this Act or the Scheme made thereunder is a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

*Inserted by Act 37 of 1953.

*Inserted by *ibid.*

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or the Scheme thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm and other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

14B. Power to recover damages.—Where an employer makes default in the payment of any contribution to the Fund or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 or in the payment of any charges payable under any other provision of this Act or of any Scheme or under any of the conditions specified under section 17, the appropriate Government may recover from the employer such damages, not exceeding twenty-five per cent. of the amount of arrears, as it may think fit to impose.]

15. Special provisions relating to existing provident funds.—(1) ¹[Subject to the provisions of section 17, every employee who is a subscriber to any provident fund of a factory to which this Act applies shall, pending the application of a Scheme to] the factory in which he is employed, continue to be entitled to the benefits accruing to him under the provident fund, and the provident fund shall continue to be maintained in the same manner and subject to the same conditions as it would have been if this Act had not been passed

(2) ²[On the application of any Scheme to a factory, the accumulations in any provident fund of the factory standing to the credit of the employees who become members of the Fund established under the Scheme] shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any deed or other instrument establishing the provident fund but subject to the provisions, if any, contained in the Scheme, be transferred to the Fund established under the Scheme, and shall be credited to the accounts of the employees entitled thereto in the Fund.

¹Subs. for certain words by *ibid.*

²Subs. for certain words by *ibid.*

16. *Act not to apply to factories belonging to Government or local authority and also to infant factories.*—²[(1)] This Act shall not apply to—

(a) any factory belonging to the Government or a local authority, and

(b) any other factory, established whether before or after the commencement of this Act, unless three years have elapsed from its establishment.

³[*Explanation.*—For the removal of doubts, it is hereby declared that the date of the establishment of a factory shall not be deemed to have been changed merely by reason of a change of the premises of a factory.]

⁴[(2) If the Central Government is of opinion that having regard to the financial position of any class of factories or other circumstances of the case, it is necessary or expedient so to do, it may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt that class of factories from the operation of this Act for such period as may be specified in the notification.]

⁵[**17.** *Power to exempt.*—(1) The appropriate Government may by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt from the operation of all or any of the provisions of any Scheme—

(a) any factory to which this Act applies if, in the opinion of the appropriate Government, the rules of its provident fund with respect to the rates of contribution are not less favourable than those specified in section 6 and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under this Act or any Scheme in relation to the employees in any other factory of a similar character; or

(b) any factory if the employees of such factory are in enjoyment of benefits in the nature of provident fund, pension or gratuity and the appropriate Government is of opinion that such benefits, separately or jointly, are on the whole not less favourable to such employees than the benefits provided under this Act or any Scheme in relation to employees in any other factory of a similar character.

Explanation.—The following conditions shall be deemed to be always included in the conditions which may be specified in a notification under clause (a), namely:—

(i) the amount of accumulations in the provident fund shall be invested in such manner as the Central Government may direct;

²Sec. 16 renumbered as sub-sec. (1) thereof by *ibid.*

³Added by *ibid.*

⁴Inserted by *ibid.*

⁵*Ibid.* for original sec. 17 by *ibid.*

(ii) the amount of accumulations to the credit of an employee in the provident fund shall, where he leaves his employment and obtains re-employment in another factory to which this Act applies, be transferred, within such time as may be specified in this behalf by the Central Government, to the credit of his account in the provident fund of the factory in which he is re-employed or, as the case may be, in the Fund established under the Scheme applicable to the factory.

(2) Any Scheme may make provision for exemption of any person or class of persons employed in any factory to which the Scheme applies from the operation of all or any of the provisions of the Scheme, if such person or class of persons is entitled to benefits in the nature of provident fund, gratuity or old age pension and such benefits, separately or jointly, are on the whole not less favourable than the benefits provided under this Act or the Scheme:

Provided that no such exemption shall be granted in respect of a class of persons unless the appropriate Government is of opinion that the majority of persons constituting such class desire to continue to be entitled to such benefits.

(3) Where any person or class of persons employed in a factory is exempted from the operation of all or any of the provisions of any Scheme under sub-section (2), the employer in relation to such a factory—

(a) shall, in relation to the provident fund, old age pension and gratuity to which such person or class of persons is entitled, maintain such accounts, submit such returns, make such investment, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct; and

(b) shall not, at any time after the exemption, without the leave of the Central Government, reduce the total quantum of benefits in the nature of old age pension, gratuity or provident fund to which such person or class of persons was entitled at the time of the exemption.]

18. Protection for acts done in good faith.—No suit or other legal proceeding shall lie against an Inspector or any other person in respect of anything which is in good faith done or intended to be done under this Act or under any Scheme.

[19. Delegation of powers.—The appropriate Government may direct that any power or authority or jurisdiction exercisable by it under this Act or any Scheme shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and

¹Subs. for original sec. 19 by Act 37 of 1953.

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.

19A. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, and in particular, if any doubt arises as to—

(i) whether a factory is engaged in any industry specified in Schedule I; or

(ii) whether fifty or more persons are employed in a factory; or

(iii) whether three years have elapsed from the establishment of a factory; or

(iv) whether the total quantum of benefits to which an employee is entitled has been reduced by the employer,

the Central Government may, by order, make such provision or give such direction, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of a doubt or difficulty; and the order of the Central Government in such cases, shall be final.]

20. Repeal of Ordinance VIII of 1951.—(1) The Employees' Provident Funds Ordinance, 1951 (VIII of 1951), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

SCHEDULE I

[See sections 2(i) and 4]

Any industry engaged in the manufacture *[* * *] of any of the following, namely:—

Cement.

Cigarettes.

Electrical, mechanical or general engineering products.

Iron and steel.

Paper.

Textiles (made wholly or in part of cotton or wool or jute or silk, whether natural or artificial).

[*Explanation.*—In this Schedule, without prejudice to the ordinary meaning of the expressions used therein,—

(a) the expression "Electrical, mechanical or general engineering products" includes—

* The words "or production" omitted by Act 37 of 1953.

¹ Added by Act 37 of 1953.

(1) machinery and equipment for the generation, transmission, distribution or measurement of electrical energy and motors including cables and wires,

(2) telephones, telegraph and wireless communication apparatus,

(3) electric lamps (not including glass bulbs),

(4) electric fans and electrical domestic appliances,

(5) storage and dry batteries,

(6) radio receivers and sound reproducing instruments,

(7) machinery used in industry (including textile machinery) other than electrical machinery and machine tools,

(8) boilers and prime movers, including internal combustion engines, marine engines and locomotives,

(9) machine tools, that is to say, metal and wood working machinery,

(10) grinding wheels,

(11) ships,

(12) automobiles and tractors,

(13) bolts, nuts and rivets,

(14) power driven pumps,

(15) bicycles,

(16) hurricane lanterns,

(17) sewing and knitting machines,

(18) mathematical and scientific instruments,

(19) products of metal rolling and re-rolling,

(20) wires, pipes, tubes and fittings,

(21) ferrous and non-ferrous castings,

(22) safes, vaults and furniture made of iron or steel or steel alloys,

(23) cutlery and surgical instruments,

(24) drums and containers,

(25) parts and accessories of products specified in items 1 to 24;

(b) the expression "Iron and Steel" includes pig iron, ingots, blooms, billets and rolled or re-rolled products into basic forms and tool and alloy steel;

(c) the expression "Paper" includes pulp, paper board and straw-board;

(d) the expression "textiles" includes the products of carding, spinning, weaving, finishing and dyeing yarn and fabrics, printing, knitting and embroidering.]

SCHEDULE II

[See section 6(2)]

MATTERS FOR WHICH PROVISION MAY BE MADE IN A SCHEME.

1. The employees or class of employees who shall join the Fund, and the conditions under which employees may be exempted from joining the Fund or from making any contribution.

2. The time and manner in which contributions shall be made to the Fund by employers and by, or on behalf of, employees, the contributions which an employee may, if he so desires, make under sub-section (1) of section 6, and the manner in which such contributions may be recovered.

3. The payment by the employer of such sums of money as may be necessary to meet the cost of administering the Fund and the rate at which and the manner in which the payment shall be made,

4. The constitution of boards of trustees for the administration of Funds, each of which shall consist of—

(a) nominees of the Central Government;

(b) nominees of such State Governments as the Central Government may, having regard to the jurisdiction of the board, specify in this behalf;

(c) representatives of the employers and employees concerned, nominated by the Central Government after consultation with the employers and employees concerned or with such of their respective organisations as are representative of their interests, provided that the number of representatives of the employees shall in no case be less than the number of representatives of the employers.

5. The number of trustees on any board, the terms and conditions subject to which they may be nominated, the time, place and procedure of meetings of the board, the appointment of officers and other employees of the board, and the opening of regional and other offices.

6. The manner in which accounts shall be kept, the investment of moneys belonging to the Fund in accordance with any directions issued or conditions specified by the Central Government, the preparation of the budget, the audit of accounts and the submission of reports to the Central Government or to any specified State Government.

7. The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.

8. The fixation by the Central Government in consultation with the boards of trustees concerned of the rate of interest payable to members.

9. The form in which an employee shall furnish particulars about himself and his family whenever required.

10. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination.

11. The registers and records to be maintained with respect to employees and the returns to be furnished by employers.

12. The form or design of any identity card, token or disc for the purpose of identifying any employee, and for the issue, custody and replacement thereof.

13. The fees to be levied for any of the purposes specified in this Schedule.

14. The contraventions or defaults which shall be punishable under sub-section (2) of section 14.

15. The further powers, if any, which may be exercised by Inspectors.

16. The manner in which accumulations in any existing provident fund shall be transferred to the Fund under section 15, and the mode of valuation of any assets which may be transferred by the employers in the behalf.

17. The conditions under which a member may be permitted to pay premia on life insurance, from the Fund.

18. Any other matter which may be necessary or proper for the purpose of implementing the Scheme.

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952¹

CHAPTER I

Preliminary

1. *Short title and application.*—(1) This Scheme may be called the Employees' Provident Funds Scheme, 1952.

(2) ²[Save as otherwise provided in the Scheme, this Chapter] and Chapters II and III shall come into force at once and the remaining provisions shall come into force on such date or dates as the Central Government may by notification in the Official Gazette appoint and different dates may be appointed for different provisions.

³[(3) (a) Subject to the provisions of sections 16 and 17 of the Act, this Scheme shall apply to all factories to which the Act applies or is applied under sub-section (3) of section 1 or section 3 thereof.

(b) The provisions of this sub-paragraph shall be deemed to have come into force with effect from the 2nd of September, 1952.]

2. *Definitions.*—In this Scheme, unless the context otherwise requires:—

(a) "Act" means the Employees' Provident Funds Act, 1952 (XIX of 1952);

(b) "Board" means a Board of Trustees constituted under this Scheme;

(c) "children" means legitimate children and includes adopted children if the Commissioner is satisfied that under the personal law of the member adoption of a child is legally recognised;

¹See Ministry of Labour Notification No. S. R. O. 1509, d/- 2-9-52, pub. in Gazette of India, Extraordinary, d/- 2-9-52, Pt. II—Sec. 3, pp. 807-831.

²Subs. for the words "This Chapter" By Notification No. S. R. O. 2035, d/- 28-10-53, see Gazette of India, d/- 31-10-53, Pt. II—Sec. 3, p. 1832.

³Inserted by *ibid.*

(d) "Commissioner" means a Commissioner for Employees' Provident Fund appointed under this Scheme;

(e) "continuous service" means uninterrupted service and includes service which is interrupted by sickness, accident, authorised leave, strike which is not illegal, or cessation of work not due to the employee's fault;

(f) "excluded employee" means—

(i) an employee who, having been a member of the Fund once, withdrew the full amount of his accumulations in the Fund on retirement after attaining the age of 55 years or on retirement due to total incapacity caused by bodily or mental infirmity;

(ii) an employee whose basic wages at the time he is otherwise entitled to become a member of the Fund, exceed three hundred rupees per month;

(iii) an employee employed by "[* * *] a contractor;

*[Explanation.—An employee who gets his wages directly or indirectly from an employer and in respect of whom the employer retains control in the matter of discharge, dismissal and re-instatement, shall not be deemed to have been employed by a contractor.]

(iv) an apprentice;

(v) an employee who by virtue of any notification issued under section 17 of the Act is exempted from the operation of this Scheme; or
"[* * *]

(g) "family" means—

(i) in the case of a male member, the wife, children whether married or unmarried, and dependent parents of the member, and the widow and children of a deceased son of the member;

Provided that if a member proves that his wife has ceased, under the personal law governing him or the customary law of the community to which the spouses belong, to be entitled to maintenance she shall no longer be deemed to be a part of the member's family for the purpose of this Scheme, unless the member subsequently intimates by express notice in writing to the Commissioner that she shall continue to be so regarded; and

(ii) in the case of a female member, the husband and children of the member, the dependent parents of the member or of the husband, and the widow and children of a deceased son of the member:

Provided that if a member by notice in writing to the Commissioner expresses her desire to exclude her husband from the family, the husband and his dependent parents shall no longer be deemed to be a part of the member's family for the purpose of this Scheme, unless the member subsequently cancels in writing any such notice.

*The words "or through" omitted and the Explanation added by Notification No. S. R. O. 501, d/- 4-3-53, see Gazette of India, d/- 14-3-53, Pt. II—Sec. 3, p. 307.

†Sub-cl. (iv) omitted by Notification No. S. R. O. 335 d/- 28-10-53; vide Gazette of India, d/- 31-10-53, Pt. II—Sec. 3, p. 1832.

Explanation.—In either of the above two cases, if the child of a member has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognised such a child shall be considered as excluded from the family of the member;

(h) "financial year" means the year commencing on the first day of April;

(i) "Government Security" shall have the meaning assigned to it in the Public Debts Act, 1944 (XVIII of 1944);

(j) "Inspector" means a person appointed as such under Section 13 of the Act;

(k) "quarter" means a period of three months commencing on the first day of January, the first day of April, the first day of July and the first day of October of each year;

(l) "Trustee" means a member of a Board of Trustees; and

(m) all other words and expressions shall have the meanings respectively assigned to them in the Act.

CHAPTER II

Board of Trustees

3. *Board of Trustees.*—(1) Subject to the provisions hereinafter contained, the Fund shall vest in and be administered by a Board of Trustees (hereinafter referred to as the 'Central Board') consisting of the following persons, namely:—

(a) a Chairman nominated by the Central Government;

(b) three persons nominated by the Central Government;

(c) nominees of such State Governments as the Central Government may having regard to the jurisdiction of the Board, specify in this behalf;

(d) six persons representing employers in the industries to which this scheme applies nominated by the Central Government in consultation with the representatives of such organisations of employers as may be recognised by the Central Government for the purpose; and

(e) six persons representing employees in the industries to which this scheme applies nominated by the Central Government in consultation with such organisation of employees as may be recognised by the Central Government for the purpose.

(2) The Central Government may, in consultation with the State Government, constitute for any State a Board of Trustees (hereinafter referred to as the 'State Board') consisting of the following persons, namely:—

(a) a Chairman nominated by the Central Government in consultation with the State Government;

(b) two persons nominated by the Central Government;

(c) two persons nominated by the State Government;

(d) four persons representing employers in the industries to which this scheme applies in the State nominated by the Central Government in consultation with such organisations of employers in the State as may be recognised for the purpose by the Central Government; and

(e) four persons representing employees in the industries to which this scheme applies in the State nominated by the Central Government in consultation with such organisations of employees in the State as may be recognised for the purpose by the Central Government.

(3) Where a Board of Trustees is constituted for any State, the Central Board shall, as soon as may be, transfer to it the amount standing to the credit of the Fund of all the employees in the State and such amount shall thereafter constitute a separate Provident Fund for that State which shall vest in and be administered by the State Board and to which shall, in future, be credited all the amounts received in accordance with the provisions of this Scheme in respect of the employees in that State.

4. Regional Committee.—(1) Until such time as a State Board is constituted for a State, the Central Government may set up a Regional Committee for the State, which will function under the control of the Central Board. The Regional Committee shall consist of the following persons, namely:—

(a) a Chairman nominated by the Central Government;

(b) two persons nominated by the Central Government on the recommendation of the State Government;

(c) three persons representing employers in the industries to which the scheme applies in the State nominated by the Central Government in consultation with such organisations of employers in the State as may be recognised for the purpose by the Central Government; [*]¹

(d) three persons representing employees in the industries to which this scheme applies in the State nominated by the Central Government in consultation with such organisations of employees in the State as may be recognised for the purpose by the Central Government; †[and

(e) the non-official members of the Central Board ordinarily resident in the State.]

(2) A Regional Committee shall advise the Central Board on such matters as the Central Board may refer to it.

(3) As soon as a State Board is constituted for any State, the Regional Committee constituted for that State under this paragraph shall stand dissolved.

5. Terms of Office.—(1) The Chairman of the Central and a State Board and that of a Regional Committee, and every Trustee of the Central and a State Board referred to in clauses (b) and (c) of subparagraphs (1) and (2), respectively, of paragraph 3 and every member

¹The word "and" omitted by Notification No. S.R.O. 303, d/- 4-3-53. see Gazette of India, d/- 14-3-53, Pt. II—Sec. 3, p. 307.

[†]Inserted by *ibid*, see *ibid*.

of a Regional Committee shall hold office during the pleasure of the Central Government:

Provided that where the Central Government directs that a trustee nominated by a State Government shall cease to hold office, the State Government shall be consulted.

(2) The term of office of the trustees of the Central Board and a State Board referred to in clauses (d) and (e) of sub-paragraphs (1) and (2), respectively, of paragraph 3 shall be five years commencing from the date on which their nomination is notified in the Official Gazette:

Provided that any such trustee shall, notwithstanding the expiry of the said period of five years, continue to hold office until the nomination of his successor is notified in the Official Gazette.

(3) Any trustee referred to in sub-paragraph (2) nominated to fill a casual vacancy shall hold office for the remainder of the term of office of the trustee in whose place he is nominated.

(4) An outgoing trustee shall be eligible for re-nomination.

6. Resignation.—(1) A trustee of the Central Board and a member of a Regional Committee may resign his office by letter in writing addressed to the Central Government and his office shall fall vacant from the date on which his resignation is accepted by the Central Government.

(2) A trustee of a State Board may resign his office by letter in writing addressed to the State Government and his office shall fall vacant from the date on which his resignation is accepted by the State Government.

7. Cessation and restoration of Trusteeship.—If a trustee or a member of a Regional Committee fails to attend three consecutive meetings of the Board or Committee, as the case may be, without obtaining leave of absence from the Chairman of the Board or Committee, he shall cease to be a trustee or member of the Committee:

Provided that the Central Government in the case of the Central Board and any Regional Committee and the State Government in the case of a State Board may restore him to trusteeship or membership of the Regional Committee, as the case may be, if it is satisfied that there were reasonable grounds for the absence.

8. Disqualifications for trusteeship or membership of Regional Committee.—(1) A person shall be disqualified for being nominated as, or for being a trustee or member of a Regional Committee:—

(i) if he is declared to be of unsound mind by a competent court; or

(ii) if he is an undischarged insolvent; or

(iii) if before or after the commencement of the Act he has been convicted of an offence involving moral turpitude.

(2) If any question arises whether any person is disqualified under sub-paragraph (1), it shall be referred—

(a) to the Central Government if the disqualification relates to a membership of the Central Board or a Regional Committee;

(b) to the State Government if the disqualification relates to membership of a State Board;

and the decision of the Central Government, or as the case may be, of the State Government on any such question shall be final.

9. Removal from Trusteeship or membership of a Regional Committee.—The Central Government may remove from office any trustee of the Central Board or member of a Regional Committee and the State Government may remove from office any trustee of a State Board if in its opinion such trustee or member of a Committee has ceased to represent the interest which he purports to represent on the Board or Committee, as the case may be:

Provided that no such trustee or member shall be removed unless a reasonable opportunity is given to such trustee or member and the body whom he represents, of making any representation against the proposed action.

10. Absence from India.—(1) Before a non-official trustee or a member of a Regional Committee leaves India:—

(a) he shall intimate to the Chairman of the Board or of the Committee, as the case may be, of the dates of his departure from and expected return to India, or

(b) if he intends to absent himself for a period longer than six months, he shall tender his resignation.

(2) If any trustee or a member of a Regional Committee leaves India for a period of six months or more without intimation to the Chairman of the Board or of the Regional Committee, as the case may be, he shall be deemed to have resigned from the Board or the Committee.

11. Meetings.—(1) A Board of Trustees or a Regional Committee shall, subject to the provisions of paragraph 12, meet at such place and time as may be appointed by the Chairman.

(2) The Chairman, may whenever he thinks fit, and shall within fifteen days of the receipt of a requisition in writing from not less than one-third of the members in the case of the Board and not less than three members excluding the Chairman in the case of a Committee, call a meeting thereof.

12. Notice of meeting and list of business.—Notice of not less than 15 days from the date of posting, containing the date, time and place of every ordinary meeting together with a list of business to be conducted at the meeting, shall be despatched by registered post or by special messenger to each Trustee or a member of the Regional Committee, as the case may be, present in India:

Provided that when the Chairman calls a meeting for considering any matter which in his opinion is urgent, a notice giving such reasonable time as he may consider necessary, shall be deemed sufficient.

13. Chairman to preside at meetings.—The Chairman of a Board or a Regional Committee shall preside at every meeting of the Board or the Regional Committee, as the case may be, at which he is present. If the Chairman is absent at any time, the trustees or members present shall elect one of their members to preside over the meeting and the trustee or member so elected shall exercise all the powers of the Chairman at the meeting.

14. Quorum.—(1) No business shall be transacted at a meeting of a Board or a Regional Committee unless at least four trustees or members of the Regional Committee are present, of whom:—

(a) in the case of the Central Board, at least one shall be from among those nominated under clause (d) and at least one from among those nominated under clause (e) of sub-paragraph (1) of paragraph 3;

(b) in the case of a State Board, at least one shall be from among those nominated under clause (d) and at least one from among those nominated under clause (e) of sub-paragraph (2) of paragraph 3; and

(c) in the case of a Regional Committee, at least one shall be from among those nominated under clause (e) and at least one from among those nominated under clause (d) of sub-paragraph (1) of paragraph 4.

(2) If at any meeting the number of trustees or members of a Regional Committee is less than the required quorum, the Chairman shall adjourn the meeting to a date not later than seven days from the date of the original meeting informing the trustees or members of the Regional Committee, as the case may be, of the date, time and place of the adjourned meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of trustees or members of the Regional Committee present.

15. Disposal of Business.—Every question considered at a meeting of a Board or a Regional Committee shall be decided by a majority of the votes of the trustees or members of the Regional Committee present and voting. In the event of an equality of votes the Chairman shall exercise a casting vote:

Provided that the Chairman may, if he thinks fit, direct that any question shall be decided by the circulation of necessary papers to trustees or members of a Regional Committee present in India and by securing their opinions in writing. Any such question shall be decided in accordance with the opinion of the majority of trustees or members received within the time limit allowed and if the opinions are equally divided, the opinion of the Chairman shall prevail;

Provided further that any trustee or member of a Regional Committee may request that the question referred to trustees or members of a Regional Committee, as the case may be, for written opinion be considered at a meeting of the Board or a Regional Committee and thereupon the Chairman may, and if the request is made by not less than three trustees or members of a Regional Committee, shall direct that it be so considered.

16. Minutes of meetings.—(1) The minutes of a meeting of a Board or a Regional Committee showing *inter alia* the names of the trustees or members of the Regional Committee present thereat shall be circulated to all trustees or members of the Regional Committee present in India not later than one month from the date of the meeting. The minutes shall thereafter be recorded in a minute book as a permanent record:

Provided that if another meeting is held within a period of one month and ten days, the minutes shall be circulated so as to reach the trustees or members at least ten days before such meeting.

(2) The records of the minutes of each meeting shall be signed by the Chairman after confirmation with such modifications, if any, as may be considered necessary at the next meeting.

17. Acts of a Board or a Regional Committee not invalid by reason of defect in its constitution etc.—No act or proceeding of a Board or a Regional Committee shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of the Board or the Regional Committee as the case may be.

18. Fees and allowances.—(1) The travelling allowance of an official trustee or official member of a Regional Committee shall be governed by the rules applicable to him for journeys performed on official duties and shall be paid by the authority paying his salary.

(2) Every non-official trustee or non-official member of a Regional Committee shall be paid a daily allowance at the maximum rate admissible to the officers of the first grade in the service of the Central or the State Government, as the case may be, for each day on which he attends a meeting of the Board or a Regional Committee, as the case may be, and travelling allowance at 1½ railway fares of the highest class from and to his usual place of business or from and to the place the journey is actually performed whichever is less, plus road mileage at annas eight per mile for the journey not covered by railway.

Explanation.—(I) No daily or travelling allowance in respect of any day or journey, as the case may be, shall be claimed under this paragraph by a trustee or member of a Regional Committee if he has drawn or will draw allowance for the same from his employer or as a member of any Legislature or of any Committee or Conference constituted or convened by Government and no travelling allowance shall be claimed if he uses a means of transport provided at the expense of Government or his employer.

Explanation.—(II) Where the journey is performed by road between places connected by railway, road mileage shall be paid only if the trustee or member of the Regional Committee certifies that the journey was undertaken by road to avoid loss of time which the journey by railway would have entailed and the distance travelled does not exceed 75 miles in a single journey.

CHAPTER III

Appointment and powers of Commissioner and other staff of Board of Trustees

19. *Provident Fund Commissioners.*—(1) The Central Government shall appoint a Commissioner who shall be the Chief Executive Officer of the Central Board and shall be subject to its general control and superintendence.

(2) When a State Board is constituted, the State Government shall appoint a Commissioner who shall be the Chief Executive Officer of the State Board and shall be subject to its general control and superintendence.

(3) A Commissioner shall not undertake any work unconnected with his office without the previous sanction of the Central Government or the State Government, as the case may be.

(4) A Commissioner appointed under this paragraph may at any time for reasons to be recorded in writing and after he is given an opportunity of being heard, be removed by the Central Government or the State Government, as the case may be.

(5) A Commissioner shall receive such salary and allowances and shall be subject to such conditions of service as may be specified in this behalf from time to time by the Central Government or the State Government, as the case may be.

(6) A Commissioner while attending the meetings of a Board may take part in its deliberations but shall not be entitled to vote.

20. *Regional Commissioner.*—Until the appointment of a State Commissioner, the Central Government may appoint a Regional Commissioner for any State to work under the general control and superintendence of the Central Commissioner.

21. *Opening of regional and other offices.*—A Board may, with the approval of the Government concerned, employ such staff and open such regional and local offices within the area of its jurisdiction as it may consider desirable for the proper implementation of the Scheme. It may also define the functions and duties of the regional and local offices.

22. *Secretary of a Board or a Regional Committee.*—(1) The Central Government shall appoint a Secretary to the Central Board and a Secretary to a Regional Committee and the State Government shall appoint a Secretary to the State Board if and when it is constituted.

(2) The Secretary to a Board or a Regional Committee, shall in consultation with the Chairman, convene meetings of the Board or Regional Committee, as the case may be, keep a record of its minutes and shall take the necessary steps for carrying out the decisions of the Board or the Regional Committee as the case may be.

23. *Staff.*—(1) The Central Commissioner and a State Commissioner may employ such staff as the Chairman of the Central Board

or a State Board, as the case may be, may consider necessary for the efficient administration of the Scheme:

Provided that the sanction of the Government concerned shall be obtained for the creation of a post with a maximum salary of Rs. 500 or above if the duration of the post is likely to exceed six months:

Provided further that the appointment to a post carrying an initial monthly salary of Rs. 275 or above shall be made by the Government concerned in consultation with the Union Public Service Commission or the State Public Service Commission, as the case may be:

Provided further that references relating to all appointments made under this sub-paragraph shall be placed before the next meeting of the Central or State Board or the Regional Committee, as the case may be, for information.

(2) Subject to the provisions of this paragraph regulations regarding the method of recruitment, salary and allowances, discipline and other conditions of service of the members of the staff shall be laid down by the Central Board or the State Board, as the case may be, with the approval of the Government concerned:

Provided that the scale of pay and allowances of the members of the staff shall generally be in accordance with the scales sanctioned by the Government concerned for similar posts under its control.

24. Power of Commissioner to sanction expenditure.—A Commissioner may, without reference to the Board, sanction expenditure on contingencies, supplies and services and purchase of articles required for administering the Fund subject to financial provision in the budget and subject to the condition that the expenditure on any single item does not exceed Rs. 200.

25. Powers of the Central Government until the Central Board is constituted.—Until the Central Board is constituted, the Central Government shall administer the Fund and may exercise any of the powers and discharge any of the functions of the Board:

Provided that on the constitution of the Central Board, the Central Government shall transfer amounts standing to the credit of the Fund to the Central Board.

CHAPTER IV

Employees required to join the Provident Fund

26. Class of employees required to join the Fund.—(1) Every employee, employed in a factory to which this Scheme applies, other than an excluded employee, shall be required to become a member of the Fund from the date on which the Scheme comes into force if he has on that date completed one year's continuous service in the factory concerned. Every employee, other than an excluded employee taking up employment, whether before or after the commencement of the Scheme, in a factory to which this Scheme applies, shall also become a member from the beginning of the month following that in which he completes one year's continuous service in the factory:

*[Provided that an employee who, during a period of twelve months, has actually worked in the factory for not less than 240 days shall be deemed to have completed one year's continuous service in the factory concerned.]

Provided *[further] that an employee who is a member of the Fund shall not cease to be a member thereof on his leaving a factory to which the Scheme applies except as provided in paragraph 27.

*(Explanation.—For the purpose of the first proviso—

(a) any days of agreed lay-off, that is to say involuntary unemployment caused by stoppage of work due to shortage of raw materials, fuel, changes in the line of production, breakdown of machinery and any other similar cause;

(b) in the case of a female employee maternity leave for any number of days not exceeding twelve weeks,

shall be deemed to be days on which the employee has worked in the factory.]

(c) An employee whose monthly basic wages exceed three hundred rupees after he has become a member of the Fund shall be required to continue his membership. His contribution will, however, be restricted to the maximum of one anna in the rupee on three hundred rupees and the dearness allowance admissible on this amount. This contribution shall continue to be payable by him and in respect of him by the employer.

*(3) If any question arises whether an employee is required to become or continue as a member of the Fund or as regards the date from which he is so required to become a member, the decision thereon of the Regional Commissioner or when State Commissioners are appointed, that of the State Commissioner shall be final.]

27. *Election for continuance of membership of certain other Provident Funds.*—Notwithstanding anything to the contrary contained in paragraph 26, a subscriber, other than an excluded employee, to a Provident Fund recognised under the Indian Income Tax Act, 1922 (XI of 1922), or to which the Provident Fund Act, 1925 (XIX of 1925), applies, shall become a member of the Fund unless he elects, by an application in Form 1 *[sent to the Commissioner—

(a) in the case of a subscriber to whom this Scheme applied on or before the 6th January, 1953, not later than the 6th April, 1953,

(b) in the case of a subscriber to whom this Scheme applies at any time after the 6th January, 1953, within three months of the date on which the Scheme becomes applicable to him,

to continue to subscribe to such Provident Fund and in that case he shall not be required or be entitled to become a member of the Fund.]

*Inserted by Notification No. S. R. O. 2008, d/- 26. 11. 52, see Gazette of India, d/- 6-12-52, Pt. II—Sec. 3, pp. 1773—1774.

*Subs. for certain words by Notification No. S. R. O. 449, d/- 23-2-53, see Gazette of India, d/- 7-3-53, Pt. II—Sec. 3, p. 287.

¹[Provided that the Commissioner may, for reasons to be recorded in writing, entertain any such application after the expiry of the period specified in this paragraph.]

Provided ²[further] that the above option to continue to subscribe to an existing Provident Fund shall be allowed to an employee in a factory only if its Provident Fund Rules with respect to contributions are in conformity with, or are more favourable to employees than those specified in the Act or the Scheme.

Explanation.—In this paragraph, 'existing Provident Fund' includes a Provident Fund established in pursuance of an award under the Industrial Disputes Act, 1947, or a collective agreement between workers and employers.

³[27-A. *Exemption of a class of employees.*—(1) A Commissioner may by order and subject to such conditions as may be specified in the order exempt from the operation of all or any of the provisions of this Scheme any class of employees to whom the Scheme applies:

Provided that such class of employees is entitled to benefits in the nature of provident fund, gratuity or old age pension according to the rules of the factory and such benefits separately or jointly are on the whole not less favourable than the benefits provided under the Act and this Scheme.

(2) Where any class of employees is exempted as aforesaid, the employer shall in respect of such class of employees maintain such account, submit such returns, provide such facilities for inspection, pay such inspection charges and invest provident fund collections in such manner as the Central Government may direct.

(3) A class of employees exempted under sub-paragraph (1) or the majority of employees constituting such class may by an application to the Commissioner make a declaration that the class desires to join the Fund and thereupon such class of employees shall become members of the Fund.

(4) No class of employees shall be granted exemption or permitted to apply out of exemption more than once on each account.

(5) The provisions of this paragraph shall be deemed to have come into force with effect from the 14th of October, 1953.]

28. *Transfer of accumulations from existing Provident Funds.*—

(1) Every authority in charge of, or entrusted with the management of, any Provident Fund in existence on the 15th day of November, 1951, the accumulations wherein are to be transferred to the Fund under sub-section (2) of section 15 of the Act, shall, before the 1st day of January, 1953, or such later date as the Board may fix in this behalf—

(i) send to the appropriate Commissioner a statement showing the amount standing to the credit of each subscriber on the date of the

¹Inserted by Notification No. S. R. O. 449, d/- 23-2-53, vide Gazette of India, d/- 7-3-53, Pt. II—Sec. 3, p. 268.

²Inserted by Notification No. S. R. O. 2035, d/- 28-10-53, vide Gazette of India, d/- 31-10-53, Pt. II—Sec. 3, p. 1833.

transfer, the total accumulations to the credit of subscribers generally on that date and the advances, if any, taken by the subscribers,

(ii) transfer to the Fund in the manner specified in sub-paragraph (2) the total accumulations standing to the credit of the subscribers in relation to each factory, and

(iii) transfer to the Board all pass-books, books of account and other documents relating to the said accumulations.

(2) All accumulations standing to the credit of the subscribers, howsoever invested, shall be transferred to the Fund by the authority aforesaid in cash:

Provided that where the whole or any part of such accumulations [were before the 2nd September, 1952 invested] in Government securities it shall be open to the authority making the transfer to have the Government securities transferred as such to the Board at their face value or to transfer to the Board a sum equivalent to the face value of the securities.

(3) Any cash transferred under sub-paragraph (2) shall be deposited in any office or branch of the Reserve Bank of India or the Imperial Bank of India to the credit of the Board, and the receipt obtained in respect thereof shall be forwarded to the appropriate Commissioner:

Provided that where there is no office or branch of either of the two Banks at the place where the factory is situated the amount shall be credited to the Board by means of a Reserve Bank of India [Government Draft at par].

(4) The accumulations transferred to the Fund in accordance with this paragraph shall be credited to the account of each of the members of the Fund, to the extent to which he may be entitled thereto having regard to the statement furnished by the authority aforesaid.

(5) When the accumulations in any such Provident Fund as is referred to in sub-paragraph (1) have been so transferred to the Fund, the appropriate Commissioner may, by notification in the Gazette of India, declare that the subscribers of such Provident Fund have now become members of the Fund and that the accumulations aforesaid have now become vested in the Board.

CHAPTER V

CONTRIBUTIONS

29. Contributions.—(1) The contributions payable by the employer under the Scheme shall be at the rate of one anna in the rupee of the basic wages and the dearness allowance payable to each employee to whom the Scheme applies.

¹Subs. for "consists of investments" by Notification No. S. R. O. 1899, d/- 10-11-52, vide Gazette of India, d/- 15-11-52, Pt. II—Sec. 3, p. 1706.

²Subs. for "Remittance Transfer Receipt" by Notification No. S. R. O. 270, d/- 28-1-53, vide Gazette of India, d/- 7-2-53, Pt. II—Sec. 3, p. 188.

(2) The contribution payable by the employee under the Scheme shall be equal to the contribution payable by the employer in respect of such employee.

(3) The contributions shall be calculated on the basis of wages and dearness allowance actually drawn during the whole month whether paid on daily, weekly, fortnightly or monthly basis.

(4) Each contribution shall be calculated to the nearest quarter of a rupee, two annas or more to be counted as the next higher quarter of a rupee.

30. Payment of contributions.—The employer shall, in the first instance pay both the contribution payable by himself (in this Scheme referred to as the employer's contribution) and also, on behalf of the member employed by him, the contribution payable by the member (in this Scheme referred to as the member's contribution).

31. Employer's share not to be deducted from the members.—Notwithstanding any contract to the contrary the employer shall not be entitled to deduct the employer's contribution from the wage of a member or otherwise to recover it from him.

32. Recovery of a member's share of contribution.—(1) The amount of a member's contribution paid by the employer shall, notwithstanding the provisions in this Scheme or any law for the time being in force or any contract to the contrary be recoverable by means of deduction from the wages of the member and not otherwise:

Provided that no such deduction may be made from any wage other than that which is paid in respect of the period or part of the period in respect of which the contribution is payable:

Provided further that the employer shall be entitled to recover the employee's share from a wage other than that which is paid in respect of the period for which the contribution has been paid or is payable where the employee has in writing given a false declaration at the time of joining service with the said employer that he was not already a member of the Fund:

Provided further that where no such deduction has been made on account of an accidental mistake or a clerical error, such deduction may, with the consent in writing of the Inspector, be made from the [subsequent]¹ wages:

(2) Deduction made from the wages of a member paid on daily, weekly or fortnightly basis should be totalled up to indicate the monthly deductions.

(3) Any sum deducted by an employer from the wage of an employee under this Scheme shall be deemed to have been entrusted to him for the purpose of paying the contribution in respect of which it was deducted.

¹Subs. for "previous" by Notification No. S. R. O. 500, d/- 2-3-53; see Gazette of India, d/- 14-3-53, Pt. II—Sec. 3, p. 307.

CHAPTER VI

DECLARATION, CONTRIBUTION CARDS AND RETURNS

33. Declaration by persons already employed at the time of institution of the Fund.—Every person who is required or entitled to become a member of the Fund shall be asked forthwith by his employer to furnish and shall, on such demand, furnish to him, for communication to the Commissioner, particulars concerning himself and his nominee required for the declaration form in Form 2. Such employer shall enter the particulars in the declaration form and obtain the signature or thumb impression of the person concerned.

34. Declaration by persons taking up employment after the Fund has been established.—The employer in relation to a factory shall, before taking any person into employment, ask him to state in writing whether or not he is a member of the Fund and if he is, ask for the Account Number and/or the name and particulars of the last employer. If he is unable to furnish the Account Number, he shall require such person to furnish and such person shall, on demand, furnish to him for communication to the Commissioner, particulars regarding himself and his nominee required for the Declaration Form. Such employer shall enter the particulars in the Declaration Form and obtain the signature or thumb impression of the person concerned.

35. Preparation of Contribution Cards.—The employer shall prepare a contribution card in Form 3 or 4, as may be appropriate, in respect of every employee in his employment at the commencement of the Scheme or who is taken into employment after that date and who is required or entitled to become or is a member of the Fund including those who produce an Account Number and in respect of whom no fresh Declaration Form is prepared.

36. Duties of Employers.—(1) Every employer shall send to the Commissioner, within fifteen days of the commencement of this Scheme, a consolidated return in such form as the Commissioner may specify, in duplicate, of the employees required or entitled to become members of the Fund showing the basic wage and dearness allowance including the cash value of any food concession paid to each of such employees.

(2) Every employer shall send to the Commissioner within fifteen days of the close of each month a return—

(a) in duplicate, in Form 5, of the employees qualifying to become members of the Fund for the first time during the preceding month together with the declarations in Form 2 furnished by such qualifying employees and with a statement showing the basic wages and dearness allowance including the cash value of any food concession of each such employee, and

(b) in duplicate, in such form as the Commissioner may specify, of the employees leaving service of the employer during the preceding month.

(3) Every employer shall send to the Commissioner within fifteen

days of the commencement of every half year, beginning from 1st April and 1st October, a consolidated return in duplicate to replace the one furnished under sub-paragraph (1) above.

(4) Every employer shall maintain such accounts in relation to the amounts contributed to the Fund by him and by his employees as the Board may, from time to time, direct, and it shall be the duty of every employer to assist the Board in making such payments from the Fund to his employees as are sanctioned by or under the authority of the Board.

(5) Notwithstanding anything hereinbefore contained in this paragraph, the Board may issue such directions to employers generally as it may consider necessary or proper for the purpose of implementing the Scheme, and it shall be the duty of every employer to carry out such directions.

37. Allotment of Account Numbers.—On receipt of the information referred to in paragraphs 33, 34 and 36, the Commissioner shall promptly allot an Account Number to each employee qualifying to become a member and shall communicate the Account Number to the member through the employer.

38. Mode of payment of contributions.—(1) The employer shall, before paying the member his wages in respect of any period or part of period for which contributions are payable, deduct the employee's contribution from his wages which together with his own contribution as well as an administrative charge of such percentage of the total employer's and employees' contributions as may be fixed by the Central Government, he shall within fifteen days of the close of every month pay to the Fund by separate Bank drafts or cheques on account of contributions and administrative charge:

Provided that if payment is made by a cheque on an outstation bank, collection charges in respect of both the contributions and the administrative charge at such rate as the Board may determine in this behalf shall be included in the amount for which the cheque is drawn in respect of the administrative charge:

Provided further that where there is no branch of the Reserve Bank or the Imperial Bank of India at the station where the factory is situated, the employer shall pay to the Fund the amount mentioned above by means of Reserve Bank of India * [Governmental Drafts at par] separately on account of contributions and administrative charge.

(2) The employer shall forward to the Commissioner, within fifteen days of the close of the month, a monthly consolidated statement, in such form as the Commissioner may specify, showing recoveries made from the wages of each employee and the amount contributed by the employer in respect of each such employee.

39. Fixation of administrative charges.—The Central Government may, in consultation with the Central Board and having regard to the

*Subs. for "Remittance Transfer Receipts" by Notification No. S. R. O. 270, d/- 28-1-53, see Gazette of India, d/- 7-2-53, Pt. II—Sec. 3, p. 188.

resources of the Fund available for meeting its normal administrative expenses, fix⁷ the percentage of administrative charges payable under sub-paragraph (1) of paragraph 38 above.

40. Contributions to be entered in the contribution card.—The amount recovered every month from the wages of an employee as well as the contribution made by the employer in respect of each such employee shall be entered by the employer every month in the contribution card opened in the name of each member under this Scheme.

41. Currency of contribution cards.—The contribution cards issued under this Scheme shall be current for one year:

Provided that the said period of one year may commence and terminate at such different times in different factories as may be decided by the Commissioner from time to time:

Provided further that the cards issued in respect of the first contribution period may be for a period which may be less or more than a year.

42. Renewal of contribution cards.—An employer shall, on or before the expiration of the period of currency of the contribution card, prepare in respect of each member employed by him a card in Form 3 or 4 as may be appropriate, for the next period of currency.

43. Submission of contribution cards to the Commissioner.—Every employer shall within one month from the date of expiration of the period of currency of the contribution cards in respect of members employed by him, send the contribution cards to the Commissioner together with a statement in Form 6.

44. Custody of contribution cards.—The employer shall retain in his custody the contribution cards in respect of each member employed by him and shall take every precaution against loss or damage of the contribution cards.

45. Inspection of cards by members.—Any member making a request in this behalf to the employer shall be permitted to inspect his cards himself or to have the same inspected by any person duly authorised by him in writing to do so, within 72 hours of making such request provided that no such request shall be entertained more than once in every two calendar months.

46. Production of cards and records for inspection by the Commissioner or Inspector.—Every employer shall, whenever the Commissioner or any other officer authorised by him in this behalf or an Inspector so requests, either in person or by notice in writing, produce before the Commissioner, Officer, or Inspector, as the case may be, the records of any member employed by him and any card then in his possession, and if so required, by the said Commissioner, Officer or Inspector shall deliver such record to the said Commissioner, Officer

⁷The Central Government has fixed 3 per cent. of the total employer's and employees' contributions as the administrative charge, see Notification No. S. R. O. 1859, d/- 31-10-52, pub. in Gazette of India, d/- 8-11-52, Pt. II—Sec. 3, p. 1662.

or Inspector, who may, if he thinks fit, retain the record provided that he shall grant a receipt for every record retained by him.

47. Supply of cards and Forms to employers.—The Commissioner shall supply to employers, free of charge on demand contribution cards, Declaration Forms and other forms referred to in this Scheme:

Provided that if any employer desires to obtain any cards or forms in excess of the number which the Commissioner considers to be the requirements of the employer, the Commissioner may, if he thinks fit, supply such extra cards or forms and make such charge therefor as he considers reasonable.

48. Current Account.—The Commissioner shall deposit the Bank drafts or cheques received from the employers in the Reserve Bank or the Imperial Bank of India in the Current Account of the Fund.

CHAPTER VII

ADMINISTRATION OF THE FUND, ACCOUNTS, AND AUDIT

49. Administration Accounts.—(1) A separate account shall be kept called the "Central Administration Account" for recording all administrative expenses of the Fund including such administrative charges as the Fund may be authorised to levy.

(2) A State Board when constituted shall meet the expenses referred to in paragraph 54(2) (b) and after keeping such reserve as the Central Government may specify, shall remit the balance to the Central Board for meeting its expenditure. The balance so remitted shall be credited to the "Central Administration Account".

50. Provident Fund Account.—The aggregate amount received as the employers' and the employees' contributions to the Fund shall be credited to an account to be called the "Provident Fund Account".

51. Interest Suspense Account.—All interest, rent, and other income realised, and net profits or losses, if any, from the sale of investments not including therein the transactions of the Administration Account, shall be credited or debited, as the case may be, to an account called the "Interest Suspense Account". Brokerage and commission on the purchase and sale of securities and other investments shall be included in the purchase or sale price, as the case may be, and not separately charged to the "Interest Suspense Account".

52. Investment of monies belonging to Employees' Provident Fund.—(1) All monies belonging to the Fund shall be deposited in the Reserve Bank or the Imperial Bank of India or in such other scheduled Banks as may be approved by the Central Government from time to time or shall be invested, subject to such directions as the Central Government may from time to time give, in the securities mentioned or referred to in clauses (a) to (d) of Section 20 of the Indian Trusts Act, 1882 (11 of 1882), provided that such securities are payable both in respect of capital and in respect of interest in India.

(2) All expenses incurred in respect of, and loss, if any, arising from, any investment shall be charged to the Fund.

(3) The Commissioner shall prepare, in Form '7' a classified summary of the Assets of the Fund as on the 31st March in each year, or on such other date as the Central Government may specify and shall append it to the annual report submitted under paragraph 74 to the Government concerned and also to the Central Government where it is not the Government concerned.

53. Disposal of the Fund.—(1) Subject to the provisions of the Act and of this Scheme, the Fund shall not, except with the previous sanction of the Central Government, be expended for any purpose other than for the payment of sums standing to the credit of individual members of the Fund or to their nominees or heirs or legal representatives in accordance with the provisions of this Scheme.

(2) The Fund shall be operated upon by such officers as may be authorised in this behalf by the Board concerned.

54. Expenses of Administration.—(1) Until State Boards are constituted all expenses relating to the administration of the Fund including those incurred on Regional Committees shall be met from the Fund.

(2) When State Boards are constituted, the following provisions shall apply, namely:—

(a) Subject to the provisions of the Act and of this Scheme, all expenses of administration of the Central Fund including the fees and allowances, of the trustees of the Central Board and salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident fund and other benefit funds instituted for the officers and servants of the Central Board, the cost of audit of the accounts, legal expenses and cost of all stationery and forms incurred in respect of the Central Board and expenses in respect of the Central Commissioner shall be met from the Central Administration Account of the Fund.

(b) All expenses of administration of the State Fund including the fees and allowances of the trustees of the State Board and salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident and other benefit funds in respect of the officers and servants of the State Board, the cost of audit of accounts, legal expenses and cost of all stationery and forms shall be met from the State Administration Account.

(3) The expenses incurred by the Central Government in connection with the establishment of the Fund shall be treated as a loan and such loan shall be repaid from the Central Administration Account.

55. Forms of Accounts.—The Accounts of the Fund including "the Administration Account" shall be maintained by the Commissioner in such form and manner as may be specified by the appropriate Board with the approval of the Government concerned.

56. *Audit.*—(1) The accounts of the Fund, including the Administration Account shall be audited in accordance with the instructions issued by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The charges on account of audit shall be paid out of the Administration Account.

57. *Inter-State transfer of members.*—Where a member of the Fund ceases to reside in any State and settles in another State, he may apply to the Commissioner of the State Fund within whose jurisdiction he was originally residing in such form as the Commissioner may specify for a transfer of his account to the State Fund in which he takes up residence.

58. *Budget.*—(1) The Commissioner shall place before the appropriate Board each year in the first fortnight of January, a budget showing separately the probable receipts from the contributions and from the levy of administrative charge and the expenditure which it proposes to incur during the following financial year. The budget as approved by the Board shall be submitted for sanction to the Government concerned within a month of its being placed before the Board.

(2) The Government concerned may make such modifications in the budget as it considers desirable before sanctioning it.

59. *Members' Accounts.*—(1) An account shall be opened in the office of the Fund in the name of each member in which shall be credited:—

(a) his contributions,

(b) the contributions made by the employer in respect of him, and

(c) interest as provided in paragraph 60.

(2) All items of account shall be calculated to the nearest quarter of a rupee—two annas or more to be counted as the next higher quarter of a rupee and fractions of a rupee less than two annas to be ignored.

(3) On receipt of the contribution card or cards of a member from his employer or employers at the end of the period of currency of the contribution card, the Commissioner shall compare the entries made in the contribution card or cards with those made in the member's individual account in the office of the Fund and shall rectify any discrepancy found in these entries.

60. *Interest.*—(1) The Commissioner shall credit to the account of each member interest at such rate as may be determined by the Central Government in consultation with the Central Board.

(2) Interest for the period of currency of the card shall be credited with effect from the last day of the period on the opening balance at the credit of the member on the first day thereof:

Provided that, when the amount standing to the credit of the member becomes payable, interest shall thereupon be credited under this sub-paragraph only for the period from the beginning of the current period upto the end of the month preceding the date of tender

of payment or upto the end of the sixth month after the month in which the amount has become payable, whichever is earlier:

Provided further that the rate of interest to be allowed on claims for refund for the broken currency period shall be the rate fixed for the financial year in which the refund becomes payable.

(3) The aggregate amount of interest credited to the accounts of the members shall be debited to "Interest Suspense Account".

(4) In determining the rate of interest, the Central Government shall satisfy itself that there is no overdrawal on the Interest Suspense Account as a result of the debit thereto of the interest credited to the accounts of members.

CHAPTER VIII

NOMINATIONS, PAYMENTS AND WITHDRAWALS FROM THE FUND

61. Nomination.—(1) Each member shall make in his declaration in Form 2, a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death before the amount standing to his credit has become payable, or where the amount has become payable before payment has been made.

(2) A member may in his nomination distribute the amount that may stand to his credit in the Fund amongst his nominees at his own discretion.

(3) If a member has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by such member in favour of a person not belonging to his family shall be invalid.

(4) If at the time of making a nomination the member has no family, the nomination may be in favour of any person or persons but if the member subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the member shall make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made under sub-paragraph (1) may at any time be modified by a member after giving a written notice of his intention of doing so in Form 8 annexed hereto. If the nominee predeceases the member, the interest of the nominee shall revert to the member who may make a fresh nomination in respect of such interest.

(6) A nomination or its modification shall take effect to the extent that it is valid on the date on which it is received by the Commissioner.

62. Withdrawals from the Fund for payment towards Insurance Policies.—Any amount with interest thereon standing to the credit of a member in the account of the Fund may be withdrawn not more than once in every six months to make a payment towards a policy of life insurance:

Provided that the withdrawal shall not be permitted before the details of the proposed policy have been submitted to the Commissioner in such form as he may specify and accepted by him as suitable. Nor

shall the withdrawal be permitted in excess of the amount required to pay a premium or subscription actually due for payment within six months of the date of withdrawal:

Provided further that no amount may be withdrawn to make any payment in respect of, or for the purpose of purchasing, an educational endowment policy if that policy is due for payment in whole or part before the member attains the age of 55 years:

Provided further that the amount withdrawn shall not exceed the total contributions of the member upto the date of withdrawal.

63. Commissioner to be satisfied regarding the utilisation of amounts withdrawn.—(1) A member desiring to withdraw any amount under paragraph 62 shall—

- (a) intimate the reason for the withdrawal to the Commissioner;
- (b) make arrangements with the Commissioner for the withdrawal;
- (c) send to the Commissioner, within such period as he may require, a receipt in order to satisfy him that the amount withdrawn was duly applied for the specified purpose.

(2) The Commissioner shall order the recovery of any amount withdrawn, in respect of which he is not satisfied that the amount withdrawn was actually spent for the specified purpose, with interest thereon at the rate provided in para. 60 from the emoluments of the member and credit it to his account in the Fund.

64. Assignment of Policies to the Fund.—(1) The Policy, within six months after the first withdrawal in respect of it, shall be assigned to the appropriate Board as security for the payment of the amount withdrawn and shall be delivered to the Commissioner.

(2) The Commissioner shall, before allowing withdrawal in respect of old policies, satisfy himself by reference to the Insurance Company that no prior assignment of the policy exists and the policy is free from all encumbrances.

(3) The terms of the policy shall not be altered nor shall the policy be exchanged for another policy without the prior consent of the Commissioner to whom the details of the alteration or of the new policy shall be furnished in such form as he may specify.

(4) If the policy is not assigned and delivered, any amount withdrawn from the Fund in respect of the policy shall, with interest thereon at the rate provided in paragraph 60, forthwith be repaid by the member to the Fund, or in default be ordered by the Commissioner to be recovered by deduction from the emoluments of the member in such instalments as he may determine.

(5) A policy to be acceptable under this paragraph shall be effected by the member on his own life and shall be such as may be legally assigned by the member to the appropriate Board.

65. Bonus to be adjusted against the withdrawal.—A member shall not during the currency of the policy draw any bonus the drawal of which during such currency is optional under the terms of the policy, and the amount of any bonus which under the terms of the policy the

member has no option to refrain from drawing during its currency shall be paid by him forthwith into the Fund to be adjusted against the amount withdrawn, or in default be recovered by deduction from his emoluments by such instalments as the Commissioner may determine.

66. Reassignment of Policies.—(1) When the member—

(a) permanently retires from service in the industry to which this Scheme applies after the attainment of the age of superannuation; or

(b) retires on account of permanent and total incapacity for work in any industry to which this Scheme applies due to bodily or mental infirmity as provided in sub-para. (1)(b) of para. 69; or

(c) is permitted by the Board or where so authorised by the Board, the Commissioner under sub-para. (2) of para. 69 to withdraw the amount standing to his credit in the Fund; or

(d) repays to the Fund the whole of any amount withdrawn from the Fund for any of the purposes mentioned in paragraph 62 with interest thereon at the rate provided in paragraph 60;

the Board shall re-assign the policy to the member and make it over to him together with a signed notice of the re-assignment addressed to the Insurance Company.

(2) If the member dies before quitting service, the Board shall re-assign the policy to the beneficiary, if any, or to such person as may be legally entitled to receive it and shall make over the policy to the beneficiary or to such persons together with a signed notice of the re-assignment addressed to the Insurance Company.

67. Repayment of the amount withdrawn.—If a policy assigned to the Board matures or otherwise falls due for payment before the member quits service, the Board shall—

(i) if the amount assured together with the amount of any accrued bonus is greater than the whole of the amount withdrawn from the Fund in respect of the policy with interest thereon at the rate provided in paragraph 60, re-assign the policy to the member and make it over to him who shall immediately on receipt of the policy monies from the Insurance Company repay to the Fund the whole of any amount withdrawn with interest;

(ii) if the amount assured together with the amount of any accrued bonus is less than the whole of the amount withdrawn with interest, realise the amount assured together with any accrued bonus and shall place the amount so realised to the credit of the member in the Fund.

68. Recovery of the amount withdrawn in certain cases.—The provisions of sub-paragraph (4) of paragraph 64 applicable to a failure to assign and deliver a policy shall apply—

(i) if the policy lapses or is assigned, otherwise than to the Board charged or encumbered; or

(ii) if the member does not repay the whole of the amount withdrawn with interest under sub-paragraph (1) of para. 67.

69. *Circumstances in which accumulations in the Fund are payable to a member.*—(1) A member may withdraw the full amount standing to his credit in the Fund—

(a) on retirement from service in the industry at any time after the attainment of the age of superannuation:

Provided that if at the time of retirement such member, not being a member who has reached the age of 50 or above at the commencement of this Scheme, has not completed five years as a member of the Fund the employer's contribution and interest thereon shall be forfeited to the Fund; or

(b) on retirement on account of permanent and total incapacity for work in any industry due to bodily or mental infirmity duly certified by a registered medical practitioner or the medical officer of the factory.

(2) The Board or where so authorised by the Board, the Commissioner may permit a member, who has not attained the age of superannuation, to withdraw the amount standing to his credit in the Fund; if—

(a) he is migrating from India for permanent settlement abroad:

Provided that the amount shall be paid to him only immediately before the date of migration; or

(b) he has not been employed in any factory to which this Scheme applies for a continuous period of not less than one year immediately preceding the date on which he makes an application for withdrawal:

Provided that a certificate, from such authority as may be specified, of non-employment for a period of one year in any factory to which the Scheme applies is produced.

(3) When a member withdraws any amount under sub-paragraph (2), the following provisions shall apply, namely:—

(i) the full amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of his membership of the Fund is less than 5 years; or

(ii) half the amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is 5 years or more but less than 10 years; or

(iii) forty per cent. of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is 10 years or more but less than 15 years; or

(iv) twenty-five per cent. of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is 15 years or more but less than 20 years.

(4) A member who withdraws the amount under sub-paragraph (2) shall be required to join as a new member of the Fund if he obtains employment again in a factory to which this Scheme is applicable and qualifies again for the membership of the Fund.

(5) Any sum forfeited to the Fund under sub-paragraphs (1) and (2) shall not be returned to the employer but shall be credited to the "Reserve Account" of the Fund.

Explanation I.—In computing the period of membership of the Fund under this paragraph, there shall be included any continuous service, ending with the commencement of this Scheme, during which the person concerned was employed with the same employer irrespective of the fact whether during such period he was or was not a member of any other Provident Fund.

Explanation II.—For the purpose of this paragraph a member shall be deemed to have attained the age of superannuation on completing the age of 55 years.

70. Accumulations of a deceased member—to whom payable.—On the death of a member before the amount standing to his credit has become payable, or where the amount has become payable before payment has been made—

(i) if a nomination made by the member in accordance with paragraph 61 subsists, the amount standing to his credit in the Fund or that part thereof to which the nomination relates, shall become payable to his nominee or nominees in accordance with such nomination; or

(ii) if no nomination subsists or if the nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or the part thereof to which the nomination does not relate, as the case may be, shall become payable to the members of his family in equal shares:

Provided that no share shall be payable to—

(a) sons who have attained majority;

(b) sons of a deceased son who have attained majority;

(c) married daughters whose husbands are alive;

(d) married daughters of a deceased son whose husbands are alive;

if there is any member of the family other than those specified in clauses (a), (b), (c) and (d):

Provided further that the widow or widows, and the child or children of a deceased son shall receive between them in equal parts only the share which that son would have received if he had survived the member and had not attained the age of majority at the time of the member's death.

(iii) In any case to which the provisions of clauses (i) and (ii) do not apply the whole amount shall be payable to the person legally entitled to it.

Explanation.—For the purpose of this paragraph a member's posthumous child, if born alive, shall be treated in the same way as a surviving child born before the member's death.

71. Deductions from the Account of member dismissed for serious and wilful misconduct.—(1) Notwithstanding anything contained in paragraph 69, if a member is dismissed by an employer in a factory to which this Scheme applies for serious and wilful misconduct, the employer may send intimation thereof to the Board and the Board or where so authorised by the Board, the Commissioner shall have the power to forfeit the employer's contribution upto a maximum of the

employer's contribution in the last two complete periods of currency of the contribution cards and that of the period of currency of the current contribution card.

(2) Before exercising the power of forfeiture conferred by sub-paragraph (1), the member concerned shall be called upon by notice in writing to show cause why the forfeiture shall not be made and shall decide the amount of forfeiture after taking into account any representation made by the member.

(3) A forfeiture made under sub-paragraph (1) may be reviewed by the said Board either of its own motion or at the request of the employer or the member.

(4) Any amount forfeited from the individual account of a member under sub-paragraph (1) shall not be returned to the employer but shall be credited to the Reserve Account of the Fund.

72. Payment of Provident Fund.—(1) When the amount standing to the credit of a member, or the balance thereof after any deduction under paragraphs 69 and 71 becomes payable, it shall be the duty of the Commissioner to make prompt payment as provided in this Scheme. He shall close the account of the member and give notice in writing to the person to whom the amount is payable, specifying the amount and tendering payment thereof. In case there is no nominee in accordance with this Scheme, the Commissioner may, if the amount to the credit of the Fund does not exceed Rs. 300 and if satisfied after enquiry about the title of the claimant, pay such amount to the claimant.

(2) If any portion of the amount, which has become payable, is in dispute or doubt, the Commissioner shall make prompt payment of that portion of the amount in regard to which there is no dispute or doubt, the balance being adjusted as soon as may be possible.

(3) If the person to whom any amount is to be paid under this Scheme is a minor or a lunatic for whose estate a guardian under the Guardians and Wards Act, 1890 (VIII of 1890), or a manager under the Indian Lunacy Act, 1912 (IV of 1912); as the case may be, has been appointed, the payment shall be made to such guardian or manager. In case no such guardian or manager has been appointed, the payment shall be made to such person as the Commissioner, where the amount does not exceed Rs. 500 or the Chairman of the Board if the amount exceeds Rs. 500 but does not exceed Rs. 1,000, considers to be the proper person representing the minor or lunatic and the receipt of such person for the amount paid shall be a sufficient discharge thereof. In any other case the amount shall be paid to the person authorised by law to receive the payment on behalf of the minor or the lunatic.

(4) If it is brought to the notice of the Commissioner that a posthumous child is to be born to the deceased member he shall retain the amount which will be due to the child in the event of its being born alive, and distribute the balance. If subsequently no child is born or the child is still born, the amount retained shall be distributed in accordance with the provisions of paragraph 70.

(5) Any person who desires to claim payment under this paragraph shall send a written application to the Commissioner, who may, at the option of the person to whom payment is to be made, make the payment—(i) by postal money order at the cost of the payee or (ii) by crossed cheque sent through post, or (iii) by deposit in the payee's postal savings bank account, if any.

73. *Annual statement of member's account.*—(1) As soon as possible after the close of each period of currency of contribution card the Commissioner shall send to each member through the employer of the factory in which he was last employed a statement of his account in the Fund showing the opening balance at the beginning of the period, amount contributed during the year, the total amount of interest credited at the end of the period or debited in the period and the closing balance at the end of the period.

(2) Members should satisfy themselves as to the correctness of the annual statement and any error should be brought to the notice of the Commissioner within six months of the receipt of the statement.

CHAPTER IX

MISCELLANEOUS

74. *Annual Report on the working of the Scheme.*—(1) Every Board shall submit to the Government concerned by the 30th June each year a report on the working of the Employees' Provident Fund Scheme during the previous financial year.

(2) Every State Board shall also forward to the Central Government and the Central Commissioner a copy of the annual Report submitted to the State Government concerned.

75. *Issue of copies of Member's Accounts, Annual Reports, etc.*—The Commissioner shall furnish copies of the member's account and of the annual reports of the Fund to any employer or member on written application and on payment of such fees and subject to such conditions as may be specified by the appropriate Board in this behalf.

76. *Punishment for failure to pay contributions etc.*—If any person—

(a) fails to pay any contribution which he is liable to pay under this Scheme, or

(b) deducts or attempts to deduct from the wages or other remuneration of a member the whole or any part of the employer's contribution, or

(c) fails or refuses to submit any return, statement or other document required by this Scheme or submits a false return, statement or other document, or makes a false declaration, or

(d) obstructs any Inspector or other official appointed under the Act or this Scheme in the discharge of his duties or fails to produce any record for inspection by such Inspector or other official, or

(e) is guilty of contravention of or non-compliance with any other requirement of this Scheme,

he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.

77. Conduct of business of the Board.—(1) All orders and other instruments shall be made and executed in the name of the Board and shall be authenticated by such person and in such manner as the Board may specify.

(2) All contracts and assurances of property shall be expressed to be made by the Board and shall be executed on behalf of the Board by the Commissioner.

78. Power to issue directions.—(1) The Central Government may, from time to time, issue such directions to State Governments, the Central Board or any other authority, under this Act or Scheme as it may consider necessary for the proper implementation of the Scheme or for the purpose of removing any difficulty which may arise in the administration thereof including difficulties in the matter of payment of accumulations in the Fund to members after they cease to be such members.

(2) Subject to the general control of the Central Government the State Government may issue any such directions to the State Board.

(3) The authority to whom any directions are issued under this paragraph shall comply with such directions.

***[79. Special provisions relating to factories in respect of which applications for exemption are received.**—Notwithstanding anything contained in this Scheme, the Commissioner may, in relation to a factory in respect of which an application for exemption under section 17 of the Act has been received on or before the 31st day of October, 1952, relax pending the disposal of the application the provisions of this Scheme in such manner as he may direct.]

FORM 1

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

(Election under paragraph 27 of the Scheme)

I hereby elect to continue to be a member of the _____
Provident Fund of which I am at present a member.

1. Name _____
(in block letters)
2. Occupation _____
3. Sex _____
4. Religion _____
5. Father's name _____
6. Husband's name (for married women only) _____

*Inserted by Notification No. S. R. O. 1858, d/- 4-11-52, pub. in Gazette of India, d/- 8-11-52, Pt. II—Sec. 3, p. 1662.

7. Permanent Address _____
 8. Name of Provident Fund of which he/she is already a member _____

I declare that all the particulars stated above are true to the best of my knowledge and belief.

Dated, _____ Signature or left hand thumb
 The _____, 195 ____ impression of person employed.

Certified that the above declaration has been signed by _____
 _____ employed in * _____

_____ before me and that he/she is a member of the _____

Provident Fund, a fund † recognised under the Income-tax Act, 1922. _____

_____ to which the Provident Funds Act, 1925 applies.

Dated, _____ Signature of the Manager or
 The _____, 195 ____ other authorised officer of the
 _____ Factory.

Registered No. of the Factory _____

*Here give the name and address of the Factory in which employed.

†Score out the portion not applicable.

FORM 2

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

Declaration and Nomination Form

[Paragraphs 33 and 61(r)]

1. Name (in block Capitals) _____ Surname _____
2. Caste _____
3. Sex _____
4. Religion _____
5. Occupation _____ Shop/Establishment/Department _____
6. Height _____
7. Father's name _____
8. Husband's name _____
 (for married women only).
9. Marital Status _____
 (whether bachelor, spinster, married, widow or widower).
- *10. Date of birth: Day _____ month _____ year _____
11. Marks of Identification _____
12. Permanent Address _____
 Village _____ Thana _____ Taluk/Sub-Division _____
 District _____ State _____

I declare that I have not previously been a member of the Employees' Provident Fund and I hereby nominate the person/s mentioned below to receive the amount standing to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid

*Where exact particulars are not available, approximate age may be indicated in consultation with the Medical Officer of the Factory.

and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of the nominee or nominees	Nominee's relationship with the member	Age of nominee	Amount or share of accumulations in the fund to be paid to each nominee	Contingencies on the happening of which the nomination shall become invalid
1	2	3	4	5

Dated _____

Signature or left hand thumb impression of the member.

Certified that above declaration has been signed by _____ employed in my factory before me after he has read the entries.

the entries have been read over to him by me.

Regd. No. of Factory.

Signature of the Manager or other authorised officer.

Dated _____

Designation _____
Name and address of the Factory.

FORM 3

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

(Paragraphs 35 and 42)

Contribution Card for monthly paid employees for the period from _____ to _____

1. Account No. _____
2. Name (in block capitals) _____ Surname _____
3. Caste _____
4. Sex _____
5. Date of birth as given in Form 2 _____
6. Occupation _____
7. Father's name _____
8. Husband's name _____
(for married women only)
9. Marital status _____
(whether bachelor, spinster, married, widow or widower)
10. Permanent Address _____
Village _____ Thana _____ Taluk/Sub-Division _____
District _____ State _____
11. Signature or left hand thumb impression of member _____
12. Signature of person preparing the card _____
13. Signature of the Manager of the Factory _____
14. Registered Number of the Factory _____
15. Name and address of the Factory _____

Particulars of employment				
Registered number of Factory	Period of employment		Remarks	Initial of the em- ployer's authorised clerk
	From	To		
The employer's and member's contribu- tions should be shown separately for each month	Month 1	Month 2	Month 3	Month 4
	Employer's Member's Total Amount refunded			
	Month 5	Month 6	Month 7	Month 8
	Month 9	Month 10	Month 11	Month 12
	Month 13	Month 14	Month 15	Month 16
Total contribution by the employer.	Rs.	As.	Signature of the employer's Head clerk or any authorised clerk.	
Total contribution by the member.			Checked and found correct.	
Grand Total Amount refunded			Authorised official of the office of the Commissioner.	

FORM 4

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952
(Paragraphs 35 and 42)

Contribution Card for employees other than monthly paid employees for the
period from _____ to _____

1. Account No. _____
2. Name (in block capitals) _____ Surname _____
3. Caste _____
4. Sex _____
5. Date of birth as given in Form 2 _____
6. Occupation _____
7. Father's name _____
8. Husband's name _____
(for married women only)
9. Marital status _____
(whether bachelor, spinster, married, widow or widower)
10. Permanent Address _____
Village _____ Thana _____ Taluk/Sub-Division _____
District _____ State _____
11. Signature or left hand thumb impression of member _____
12. Signature of person preparing the card _____
13. Signature of the Manager of the Factory _____
14. Registered Number of the Factory _____
15. Name and address of the Factory _____

Particulars of employment

Registered number of Factory	Duration of employment		Remarks	Initials of the em- ployer's authorised clerk
	From	To		

The employer's and member's contribution should be shown separately for each week

Employer's	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6
Member's						
Total Amount refunded						

Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15
Week 16	Week 17	Week 18	Week 19	Week 20	Week 21	Week 22	Week 23	Week 24
Week 25	Week 26	Week 27	Week 28	Week 29	Week 30	Week 31	Week 32	Week 33
Week 34	Week 35	Week 36	Week 37	Week 38	Week 39	Week 40	Week 41	Week 42
Week 43	Week 44	Week 45	Week 46	Week 47	Week 48	Week 49	Week 50	Week 51
Week 52								

Rs. As.

Total contribution by the employer.	Signature of the employer's Head clerk or any authorised clerk.
Total contribution by the member.	Checked and found correct.
Grand Total Amount refunded.	Authorised official of the office of the Commissioner.

FORM 3

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

[Paragraph 36(2) (a)]

Return of employees qualifying for membership of the Employees' Provident Fund for the first time during the month of _____ 19__

(To be sent to the Commissioner in duplicate with Form 2)

Name and address of the factory _____
 Registered No. of the factory _____

Serial No.	Name of the employee (in block capitals)	Father's name (or husband's name in case of married woman)	Sex	Basic monthly wages	Monthly dearness and other allowances including cash value of food concessions	Total wages	Account No. (to be filled up by the Commissioner vide paragraph 37)	Remarks

Dated _____

Signature of the Manager of the Factory.

FORM 6

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

[Paragraph 43]

Return of Contribution Cards sent to the Commissioner on the expiry of the period of currency from the _____ 195 , to the _____ 195 .
 (To be sent in duplicate)

Name and address of the factory _____
 Registered No. of the factory _____

Serial No.	Account No.	Name of the member (in block capitals)	Total Contribution	Amount refunded	Remarks	Space for use in the Commissioner's office
			Rs. As.	Rs. As.		

Total Amount of contributions .

Total Amount refunded .

Total number of cards sent _____
 Dated _____

Signature of the Manager of the factory.

FORM 7

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

[Paragraph 52(3)]

Classified summary of the assets of the Employees' Provident Fund for the year _____

Class of Assets	Book value as per (a) below	Market value as on ____ 19 ____ as per (b) below	Remarks as per (c) below
	Rs.	Rs.	Rs.
1. Government of India Securities			
2. Indian State Government Securities			
3. Indian Municipal Port and Improvement Trust Securities including debentures			
4. Debentures of Indian Railways			
5. Guaranteed and Preference shares of Indian Railways			
6. Annuities of Indian Railways			
7. Ordinary shares of Railways in India			
8. Other debentures of concerns in India			
9. Other guaranteed and Preference shares of concerns in India			
10. Other ordinary shares of concerns in India			
11. Cash on deposit in Banks			
12. Cash in hand and on Current account in Banks			
13. Other assets (to be specified)			

The summary shall show:

- (a) the value for which credit is taken in the accounts for each of the above-mentioned classes of assets.
- (b) the market value of such of the above-mentioned classes of assets as has been ascertained from published quotations.
- (c) how the value of such of the above-mentioned classes of assets as has not been ascertained from published quotations has been arrived at.

Signature of the Commissioner

FORM 8

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

[Paragraph 61(5)]

I _____ hereby cancel the nomination made by me on the _____ as regards the disposal, in the event of my death, of the amount standing to my credit in the Employees' Provident Fund and hereby nominate the person/s mentioned below to receive the amount standing to my credit in the Fund, in the event of my death before that amount has become payable; or having become payable has not been paid and direct that

the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of the nominee or nominees	Nominee's relationship with the member	Age of nominee	Amount or share of accumulations in the Fund to be paid to each nominee	Contingencies on the happening of which the nomination shall become invalid
1	2	3	4	5

Date _____

Signature or left hand thumb impression of member.

Certified that the above declaration has been signed before me by _____
employed in _____

Registered No. of the factory.

Signature of the Manager of the factory.

THE EMPLOYEES' STATE INSURANCE ACT, 1948.

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SCHEDULE I.
SCHEDULE II.

THE EMPLOYEES' STATE INSURANCE ACT, 1948¹.

Act No. XXXIV of 1948.

[10th April, 1948.]

An Act to provide for certain benefits to employees in case of sickness, maternity and 'employment injury' and to make provision for certain other matters in relation thereto.

WHEREAS it is expedient to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent, commencement and application.*—(1) This Act may be called the Employees' State Insurance Act, 1948.

(2) It extends to ²[the whole of India ³[except the State of Jammu and Kashmir]].

(3) It shall come into force on such date⁴ or dates⁴ as the Central Government may, by notification in the official Gazette, appoint, and different dates⁴ may be appointed for different provisions of this Act and ⁵[for different States or for different parts thereof].

¹For Statement of Objects and Reasons, see Gazette of India, dated 6th November, 1946, Pt. V, pp. 319-357; and for Report of Select Committee, see *ibid*, dated 21st February, 1948, Pt. V, pp. 124-159.

²Subs. for "all the Provinces of India" by I. A. O., 1950.

³Subs. for "except Part B States" by the Employees' State Insurance (Am.) Act 53 of 1951.

⁴Chaps. I, II, III and VIII were brought into force from 1st September, 1948, see Notification No. S. 21 (2), dated 31st August, 1948 (pub. in Gazette of India, Extra-ordinary, 1948, p. 1417). Sections 44 and 45, and Chap. VII were brought into force on 1st April, 1950, in all Part A States, and States of Ajmer and Coorg, Delhi and the Andaman and Nicobar Islands, see Notification No. SS. 121 (32), dated 3rd April, 1950 (pub. in Gazette of India, Pt. I—Sec. 3, p. 64). Provisions of Chaps. I, II, VII and VIII, and secs. 44 and 45 of Chap. IV were brought into force in all Part B States except the State of Jammu and Kashmir on 24-11-51 and provisions of Chap. VA were brought into force in the whole of India except the State of Jammu and Kashmir on 24-11-51, (vide Notification No. S. R. O. 1832 dated 24th November, 1951). Provisions of Chap. IV (except provisions of secs. 44 and 45 already brought into force), Chaps. V and VI were brought into force in the State of Delhi and Kanpur area of the State of Uttar Pradesh on 24-2-52, (vide Notification No. S. R. O. 251 dated 1st February, 1952, pub. in Gazette of India, dated 9th February, 1952, Pt. II—Sec. 3, p. 271). Provisions of sub-sec. (1) of sec. 76 and of secs. 78, 79 and 81 of Chap. VI were brought into force in the whole of India except the State of Jammu and Kashmir, and the State of Delhi and Kanpur area of the State of Uttar Pradesh, on 1st September, 1952 (vide Notification No. S. R. O. 1576 dated 3rd September, 1952). The provisions of Chaps. I, II, III, VA, VII and VIII and secs. 44 and 45 of Chap. IV were brought into force on 1-9-54 in the following tribal areas, namely:—(i) The United Khasi-Jaintia Hills District, (ii) The Garo Hills District, (iii) The Lushai Hills District, (iv) The North Cachar Hills and (v) The Mikir Hills, (vide Notification No. S. R. O. 2972, d/- 1-9-54, pub. in Gazette of India, d/- 11-9-54, Pt. II—Sec. 3, p. 2215).

⁵Subs. for "different States" by Act 53 of 1951.

(4) It shall apply, in the first instance, to all factories (including factories belonging to the "[Government]) other than seasonal factories.

(5) The appropriate Government may, in consultation with the Corporation and "[where the appropriate Government is a State Government with the approval of the Central Government], after giving six months' notice of its intention of so doing by notification in the official Gazette, extend the provisions of this Act or any of them, to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) "appropriate Government" means, in respect of establishments under the control of the Central Government or "[a railway administration] or a major port or a mine or oilfield, the Central Government, and in all other cases, the "[State Government];

"(2) "benefit period" means such period, being not less than twenty-five but not exceeding twenty-seven consecutive weeks or six consecutive months corresponding to the contribution period, as may be specified in the regulations;

Provided that in the case of the first benefit period a longer or shorter period may be specified by or under the regulations;]

(3) "confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

(4) "contribution" means the sum of money payable to the Corporation by the principal employer in respect of an employee and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Act;

"(5) "contribution period" means such period, being not less than twenty-five but not exceeding twenty-seven consecutive weeks or six consecutive months, as may be specified in the regulations;

Provided that in the case of the first contribution period a longer or shorter period may be specified by or under the regulations;]

(6) "Corporation" means the Employees' State Insurance Corporation set up under this Act;

(7) "duly appointed" means appointed in accordance with the provisions of this Act or with the rules or regulations made thereunder;

(8) "employment injury" means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment in a factory or establishment to which this

¹Subs. for "Crown" by I. A. O., 1950.

²Subs. for "with the approval of the Central Government" by Act 53 of 1951.

³Subs. for "a federal railway" by I. A. O., 1950.

⁴Subs. for "Provincial Government" by *ibid.*

⁵Subs. for original cl. (2) by Act 53 of 1951.

⁶Subs. for original cl. (5) by *ibid.*

Act applies, which injury or occupational disease would entitle such employee to compensation under the Workmen's Compensation Act, 1923 (VIII of 1923), if he were a workman within the meaning of the said Act;

(9) "employee" means any person employed for wages in or in connection with the work of a factory or establishment to which this Act applies and—

(i) who is directly employed by the principal employer on any work of, or incidental or preliminary to, or connected with the work of, the factory or establishment, whether such work is done by the employee in the factory or establishment or elsewhere; or

(ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment; or

(iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service; but does not include—

(a) any member of ¹[the Indian] naval, military or air forces; or

(b) any person employed on a remuneration which in the aggregate exceeds four hundred rupees a month;

(10) "exempted employee" means an employee who is not liable under this Act to pay the employee's contribution;

(11) "family" means the spouse and minor legitimate and adopted children dependent upon the insured person and where the insured person is a male, his dependent parents;

(12) "factory" means any premises including the precincts thereof whereon twenty or more persons are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on but does not include a mine subject to the operation of the Indian Mines Act, 1923 (IV of 1923)²; ³[or a railway running shed];

"seasonal factory" means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including *gur*) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes;

The expressions "manufacturing process" and "power" shall have

¹Subs. for "His Majesty's" by I. A. O., 1950.

²See now the Mines Act 35 of 1952.

³Inserted by Act 53 of 1951.

the meanings respectively assigned to them in the Factories Act, ¹[1948] (LXIII of 1948):

(13) "immediate employer", in relation to employees employed by or through him, means a person who has undertaken the execution, on the premises of a factory or an establishment to which this Act applies or under the supervision of the principal employer or his agent, of the whole or any part of any work which is ordinarily part of the work of the factory or establishment of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such factory or establishment, and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer;

(14) "insured person" means a person who is or was an employee in respect of whom contributions are or were payable under this Act and who is, by reason thereof, entitled to any of the benefits provided by this Act;

(15) "occupier" of the factory shall have the meaning assigned to it in the Factories Act, ²[1948] (LXIII of 1948);

(16) "prescribed" means prescribed by rules made under this Act;

(17) "principal employer" means—

(i) in a factory, the owner or occupier of the factory and includes the managing agent of such owner or occupier, the legal representative of a deceased owner or occupier, and where a person has been named as the manager of the factory under ³[the Factories Act, 1948] (LXIII of 1948), the person so named;

(ii) in any establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf or where no authority is so appointed, the head of the Department;

(iii) in any other establishment, any person responsible for the supervision and control of the establishment;

(18) "regulation" means a regulation made by the Corporation;

(19) "Schedule" means a Schedule to this Act;

(20) "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds;

(21) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of work;

(22) "wages" means all remuneration paid or payable in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes other additional remuneration, if any, ⁴[paid at intervals not exceeding two months] but does not include—

¹Subs. for "1934" by Act 53 of 1951.

²Subs. for "clause (e) of sub-section (1) of section 9 of the Factories Act, 1934" by *ibid.*

³Subs. for "paid at regular intervals after the last day of the wage-period" by *ibid.*

(a) any contribution paid by the employer to any pension fund or provident fund, or under this Act;

(b) any travelling allowance or the value of any travelling concession;

(c) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(d) any gratuity payable on discharge;

(23) "week" means a period of seven days commencing at midnight on Saturday night;

(24) the expressions "dependant", "managing agent", "occupational disease", "partial disablement" where the disablement is of a permanent nature and "total disablement" shall have respectively the meanings assigned to them in the Workmen's Compensation Act, 1923 (VIII of 1923).

CHAPTER II

CORPORATION, STANDING COMMITTEE AND MEDICAL BENEFIT COUNCIL

3. *Establishment of Employees' State Insurance Corporation.*—(1) With effect from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, there shall be established for the administration of the scheme of Employees' State Insurance in accordance with the provisions of this Act a Corporation to be known as the Employees' State Insurance Corporation.

(2) The Corporation shall be a body corporate by the name of Employees' State Insurance Corporation having perpetual succession and a common seal and shall by the said name sue and be sued.

4. *Constitution of Corporation.*—The Corporation shall consist of the following members, namely:—

(a) the Minister for Labour in the Central Government, *ex-officio*, as Chairman;

(b) the Minister for Health in the Central Government, *ex-officio*, as Vice-Chairman;

(c) not more than five persons to be nominated by the Central Government of whom at least three shall be officials of the Central Government;

(d) one person each representing each of the ¹[Part A States and Part B States in which this Act is in force] to be nominated by the ¹[State Government] concerned;

(e) one person to be nominated by the Central Government to represent the ²[Part C States];

(f) five persons representing employers to be nominated by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;

¹Subs. by Act 53 of 1951 for "Part A States" which had been subs. for "Governor's Provinces" by I. A. O., 1950.

²Subs. for "Provincial Government" by I. A. O., 1950.

³Subs. for "Chief Commissioners' Provinces" by *ibid.*

(g) five persons representing employees to be nominated by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government;

(h) two persons representing the medical profession to be nominated by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government; and

(i) two persons to be elected by ¹[Parliament].

5. *Term of office of members of the Corporation.*—(1) Save as otherwise expressly provided in this Act, the term of office of members of the Corporation, other than the *ex-officio* members and members referred to in clauses (c), (d) and (e) of section 4, shall be four years commencing from the date on which their nomination or election is notified:

Provided that a member of the Corporation shall, notwithstanding the expiry of the said period of four years, continue to hold office until the nomination or election of his successor is notified.

(2) The members of the Corporation referred to in clauses (c), (d) and (e) of section 4 shall hold office during the pleasure of the Government nominating them.

6. *Eligibility for renomination or re-election.*—An outgoing member of the Corporation, the Standing Committee, or the Medical Benefit Council shall be eligible for renomination or re-election as the case may be.

7. *Authentication of orders, decisions, etc.*—All orders and decisions of the Corporation shall be authenticated by the signature of the Chairman or some other member authorised by the Corporation in this behalf and all other instruments issued by the Corporation shall be authenticated by the signature of such member or officer of the Corporation as may be authorised by it.

8. *Constitution of Standing Committee.*—A Standing Committee of the Corporation shall be constituted from among its members, consisting of—

(a) a Chairman, nominated by the Central Government;

(b) three members of the Corporation, being officials of the Central Government, nominated by that Government;

⁴[(bb) three members of the Corporation representing such three State Governments thereon as the Central Government may, by notification in the Official Gazette, specify from time to time;]

(c) ²[six] members elected by the Corporation as follows:—

³[* * * *]

(ii) two members from among the members of the Corporation representing employers;

¹Subs. for "the Central Legislature" by 1, A. O. 1950.

⁴Inserted by Act 53 of 1951.

²Subs. for "nine" by *ibid.*

³Sub-cl. (i) omitted by *ibid.*

(iii) two members from among the members of the Corporation representing employees;

(iv) one member from among the members of the Corporation representing the medical profession; and

(v) one member from among the members of the Corporation elected by ²[Parliament].

9. *Term of office of members of Standing Committee.*—(1) Save as otherwise expressly provided in this Act, the term of office of a member of the Standing Committee, other than a member referred to in clause (a) or ¹[clause (b) or clause (bb)] of section 8, shall be two years from the date on which his election is notified:

Provided that a member of the Standing Committee shall, notwithstanding the expiry of the said period of two years, continue to hold office until the election of his successor is notified:

Provided further that a member of the Standing Committee shall cease to hold office when he ceases to be a member of the Corporation.

(2) A member of the Standing Committee referred to in clause (a) or ¹[clause (b) or clause (bb)] of section 8 shall hold office during the pleasure of the Central Government.

10. *Medical Benefit Council.*—(1) The Central Government shall constitute a Medical Benefit Council consisting of—

(a) the Director General, Health Services, *ex-officio*, as Chairman,

(b) a Deputy Director General, Health Services, to be nominated by the Central Government;

(c) the Medical Commissioner of the Corporation, *ex-officio*;

(d) one member each representing each of the ³[Part A States or Part B States in which this Act is in force] to be nominated by the ²[State Government] concerned;

(e) three members representing employers to be nominated by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;

(f) three members representing employees to be nominated by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government; and

(g) three members, of whom not less than one shall be a woman, representing the medical profession, to be nominated by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government.

(2) Save as otherwise expressly provided in this Act, the term of office of a member of the Medical Benefit Council, other than a

¹Subs. for "Provincial Government" by I. A. O., 1950.

²see I. n. 3 in p. 286, ante.

³Subs. for "clause (b)" by Act 53 of 1951.

⁴see I. n. 9 in p. 285, ante.

member referred to in any of the clauses (a) to (d) of sub-section (1), shall be four years from the date on which his nomination is notified.

(3) A member of the Medical Benefit Council referred to in clauses (b) and (d) of sub-section (1) shall hold office during the pleasure of the Government nominating him.

11. Resignation of membership.—A member of the Corporation, the Standing Committee or the Medical Benefit Council may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance of the resignation by that Government.

12. Cessation of membership.—²[(1)] A member of the Corporation, the Standing Committee, or the Medical Benefit Council shall cease to be a member of that body if he fails to attend three consecutive meetings thereof:

Provided that the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, may, subject to rules made by the Central Government in this behalf, restore him to membership.

¹[(2)] Where in the opinion of the Central Government any person nominated or elected to represent employers, employees or the medical profession on the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, has ceased to represent such employers, employees or the medical profession, the Central Government may, by notification in the Official Gazette, declare that with effect from such date as may be specified therein such person shall cease to be a member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be.]

13. Disqualification.—A person shall be disqualified for being chosen as or for being a member of the Corporation, the Standing Committee or the Medical Benefit Council—

(a) if he is declared to be of unsound mind by a competent Court; or

(b) if he is an undischarged insolvent; or

(c) if he has directly or indirectly by himself or by his partner any interest in a subsisting contract with, or any work being done for, the Corporation except as a medical practitioner or as a shareholder (not being a Director) of a company; or

(d) if before or after the commencement of this Act, he has been convicted of an offence involving moral turpitude.

14. Filling of vacancies.—(1) Vacancies in the office of nominated or elected members of the Corporation, the Standing Committee and the Medical Benefit Council shall be filled by nomination or election, as the case may be.

(2) A member of the Corporation, the Standing Committee or the Medical Benefit Council nominated or elected to fill a casual vacancy shall hold office only so long as the member in whose place he is

¹Sec. 12 re-numbered sub-sec. (1) of that section by Act 53 of 1951.

²Inserted by *ibid.*

nominated or elected would have been entitled to hold office if the vacancy had not occurred.

15. Fees and allowances.—Members of the Corporation, the Standing Committee and the Medical Benefit Council shall receive such fees and allowances as may from time to time be prescribed by the Central Government.

16. Principal Officers.—(1) The Central Government may, in the case of the first appointments itself and in the case of subsequent appointments, in consultation with the Corporation, appoint the following officers (hereinafter referred to as Principal Officers) of the Corporation, namely :—

(a) a Director General of Employees' State Insurance;

(b) an Insurance Commissioner;

(c) a Medical Commissioner;

(d) a Chief Accounts Officer; and (e) an Actuary.

(2) The Director General shall be the Chief Executive Officer of the Corporation.

(3) The Principal Officers shall be whole-time officers of the Corporation and shall not undertake any work unconnected with their office without the sanction of the Central Government.

(4) A Principal Officer shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing Principal Officer shall be eligible for reappointment if he is otherwise qualified.

(5) A Principal Officer shall receive such salary and allowances as may be prescribed by the Central Government.

(6) A person shall be disqualified from being appointed as or for being a Principal Officer if he is subject to any of the disqualifications specified in section 13.

(7) The Central Government may at any time remove a Principal Officer from office and shall do so if such removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Corporation.

17. Staff.—(1) The Corporation may employ such other staff of officers and servants as may be necessary for the efficient transaction of its business provided that the sanction of the Central Government shall be obtained for the creation of any post with a maximum monthly salary of five hundred rupees and above.

(2) The Corporation shall, with the approval of the Central Government, make regulations regarding the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the members of its staff.

(3) Every appointment to posts carrying a maximum monthly pay of five hundred rupees and above shall be made in consultation with the [Union] Public Service Commission:

*Subs. for "Federal" by I. A. O., 1950.

Provided that this sub-section shall not apply to an officiating or temporary appointment for an aggregate period not exceeding one year.

18. Powers of the Standing Committee.—(1) Subject to the general superintendence and control of the Corporation, the Standing Committee shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation.

(2) The Standing Committee shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf.

(3) The Standing Committee may, in its discretion, submit any other case or matter for the decision of the Corporation.

19. Corporation's power to promote measures for health, etc., of insured persons.—The Corporation may, in addition to the scheme of benefits specified in this Act, promote measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured and may incur in respect of such measures expenditure from the funds of the Corporation within such limits as may be prescribed by the Central Government.

20. Meetings of Corporation, Standing Committee and Medical Benefit Council.—Subject to any rules made under this Act, the Corporation, the Standing Committee and the Medical Benefit Council shall meet at such times and places and shall observe such rules or procedure in regard to transaction of business at their meetings as may be specified in the regulations made in this behalf.

21. Supersession of the Corporation and Standing Committee.—(1) If in the opinion of the Central Government, the Corporation or the Standing Committee persistently makes default in performing the duties imposed on it by or under this Act or abuses its powers, that Government may, by notification in the official Gazette, supersede the Corporation, or in the case of the Standing Committee, supersede in consultation with the Corporation, the Standing Committee:

Provided that before issuing a notification under this sub-section the Central Government shall give a reasonable opportunity to the Corporation or the Standing Committee, as the case may be, to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Corporation or the Standing Committee, as the case may be.

(2) Upon the publication of a notification under sub-section (1) superseding the Corporation or the Standing Committee, all the members of the Corporation or the Standing Committee, as the case may be, shall, as from the date of such publication, be deemed to have vacated their offices.

(3) When the Standing Committee has been superseded, a new Standing Committee shall be immediately constituted in accordance with section 8.

(4) When the Corporation has been superseded, the Central Government may—

(a) immediately nominate or cause to be nominated or elected new members to the Corporation in accordance with section 4 and may constitute a new Standing Committee under section 8;

(b) in its discretion, appoint such agency, for such period as it may think fit, to exercise the powers and perform the functions of the Corporation and such agency shall be competent to exercise all the powers and perform all the functions of the Corporation,

(5) The Central Government shall cause a full report of any action taken under this section and the circumstances leading to such action to be laid before ²[Parliament] at the earliest opportunity and in any case not later than three months from the date of the notification superseding the Corporation or the Standing Committee, as the case may be.

22. Duties of Medical Benefit Council.—The Medical Benefit Council shall—

(a) advise ⁴[the Corporation and the Standing Committee] on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other connected matters;

(b) have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connection with medical treatment and attendance; and

(c) perform such other duties in connection with medical treatment and attendance as may be specified in the regulations.

23. Duties of Principal Officers.—The Principal Officers shall exercise such powers and discharge such duties as may be prescribed. They shall also perform such other functions as may be specified in the regulations.

24. Acts of Corporation, etc., not invalid by reason of defect in constitution, etc.—No act of the Corporation, the Standing Committee or the Medical Benefit Council shall be deemed to be invalid by reason of any defect in the constitution of the Corporation, the Standing Committee or the Medical Benefit Council, or on the ground that any member thereof was not entitled to hold or continue in office by reason of any disqualification or of any irregularity in his nomination or election, or by reason of such act having been done during the period of any vacancy in the office of any member of the Corporation, the Standing Committee or the Medical Benefit Council.

25. Regional Boards, Local Committees, Regional and Local Medical Benefit Councils.—The Corporation may appoint Regional Boards, Local Committees and Regional and Local Medical Benefit Councils in such areas and in such manner, and delegate to them such powers and functions, as may be provided by the regulations.

²Subs. for "the Central Legislature" by I. A. O., 1950.

⁴Subs. for "the Corporation, the Standing Committee and the Medical Commissioner" by Act 53 of 1951.

CHAPTER III

FINANCE AND AUDIT

26. Employees' State Insurance Fund.—(1) All contributions paid under this Act and all other moneys received on behalf of the Corporation shall be paid into a fund called the Employees' State Insurance Fund which shall be held and administered by the Corporation for the purposes of this Act.

(2) The Corporation may accept grants, donations and gifts from the Central or any ¹[State Government], ²[* * *], local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Act.

³[(3) Subject to the other provisions contained in this Act and to any rules or regulations made in this behalf, all moneys accruing or payable to the said Fund shall be paid into the Reserve Bank of India or such other bank as may be approved by the Central Government to the credit of an account styled the account of the Employees' State Insurance Fund.]

(4) Such account shall be operated on by such officers as may be authorised by the Standing Committee with the approval of the Corporation.

27. Grant by the Central Government.—The Central Government shall, every year during the first five years, make a grant to the Corporation of a sum equivalent to two-thirds of the administrative expenses of the Corporation not including therein the cost of any benefits provided by or under this Act.

28. Purposes for which the Fund may be expended.—Subject to the provisions of this Act and of any rules made by the Central Government in that behalf, the Employees' State Insurance Fund shall be expended only for the following purposes, namely:—

(i) payment of benefits and provision of medical treatment and attendance to insured persons and, where the medical benefit is extended to their families, the provision of such medical benefit to their families, in accordance with the provisions of this Act and defraying the charges and costs in connection therewith;

(ii) payment of fees and allowances to members of the Corporation, the Standing Committee and the Medical Benefit Council, the Regional Boards, Local Committees and Regional and Local Medical benefit Councils;

(iii) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure

¹Subs. for "Provincial Government" by I. A. O., 1950.

²"Part B State" which had been substituted for "Indian State" by I. A. O., 1950, omitted by Act 53 of 1951.

³Subs. for original sub-sec. (3) by Act 53 of 1951.

in respect of offices and other services set up for the purpose of giving effect to the provisions of this Act;

(iv) establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit of insured persons and, where the medical benefit is extended to their families, their families;

(v) payment of contributions to any ^a[State Government], ^a[* * *], local authority or any private body or individual, towards the cost of medical treatment and attendance provided to insured persons and, where the medical benefit is extended to their families, their families including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation;

(vi) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;

(vii) defraying the cost (including all expenses) of the Employees' Insurance Courts set up under this Act;

(viii) payment of any sums under any contract entered into for the purposes of this Act by the Corporation or the Standing Committee or by any officer duly authorised by the Corporation or the Standing Committee in that behalf;

(ix) payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or servants for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Corporation;

(x) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Act;

(xi) defraying expenditure, within the limits prescribed, on measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured; and

(xii) such other purposes as may be authorised by the Corporation with the previous approval of the Central Government.

29. Holding of property, etc.—(1) The Corporation may, subject to such conditions as may be prescribed by the Central Government, acquire and hold property both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for the purposes for which the Corporation is established.

(2) Subject to such conditions as may be prescribed by the Central Government, the Corporation may from time to time invest any moneys which are not immediately required for expenses properly defrayable

^aSubs. for "Provincial Government" by L. A. O., 1950.

^asee f. n. 6 at p. 292, ante.

under this Act and may, subject as aforesaid, from time to time re-invest or realise such investments.

(3) The Corporation may, with the previous sanction of the Central Government and on such terms as may be prescribed by it, raise loans and take measures for discharging such loans.

(4) The Corporation may constitute for the benefit of its staff or any class of them, such provident or other benefit fund as it may think fit.

30. Vesting of the property in the Corporation.—All property acquired before the establishment of the Corporation shall vest in the Corporation and all income derived and expenditure incurred in this behalf shall be brought into the books of the Corporation.

31. Expenditure by Central Government to be treated as a loan.—All expenditure incurred by the Central Government for and in connection with the establishment of the Corporation up to the date of its establishment shall be treated as a loan advanced by the Central Government to the Corporation and such loan shall be adjusted against grants from the Central Government to the Corporation.

32. Budget estimates.—The Corporation shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the Central Government before such date as may be fixed by it in that behalf. The budget shall contain provisions adequate in the opinion of the Central Government for the discharge of the liabilities incurred by the Corporation and for the maintenance of a working balance.

33. Accounts.—The Corporation shall maintain correct accounts of its income and expenditure in such form and in such manner as may be prescribed by the Central Government.

34. Audit.—(1) The accounts of the Corporation shall be audited, at such times and in such manner as may be prescribed, by auditors appointed by the Central Government.

(2) The auditors shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may, for the purposes of the audit, call for such explanation and information as they may require or examine any principal or other officer of the Corporation.

(3) The auditors shall forward to the Central Government a copy of their report together with an audited copy of the accounts of the Corporation.

(4) The cost of the audit as determined by the Central Government shall be paid out of the funds of the Corporation.

35. Annual report.—The Corporation shall submit to the Central Government an annual report of its work and activities.

36. Budget, audited accounts and the annual report to be placed before ²[Parliament].—The annual report, the audited accounts of the Corporation, and the budget as finally adopted by the Corporation shall be placed before ²[Parliament] and published in the official Gazette.

37. Valuation of assets and liabilities.—The Corporation shall, at intervals of five years, have a valuation of its assets and liabilities made by a valuer appointed with the approval of the Central Government:

Provided that it shall be open to the Central Government to direct a valuation to be made at such other times as it may consider necessary.

CHAPTER IV

CONTRIBUTIONS

38. All employees to be insured.—Subject to the provisions of this Act, all employees in factories or establishments to which this Act applies shall be insured in the manner provided by this Act.

39. Contributions.—(1) The contribution payable under this Act in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation.

(2) The contributions shall be paid at the rates specified in the First Schedule, and in case where the provisions of this Act are made applicable to any employee or class of employees in any factory or establishment or class of factories or establishments in such manner that they are excluded from some of the benefits under this Act, at such rates as the Corporation may fix in this behalf.

(3) A week shall be the unit in respect of which all contributions shall be payable under this Act.

(4) The contributions payable in respect of each week shall ordinarily fall due on the last day of the week, and where an employee is employed for part of the week, or is employed under two or more employers during the same week, the contributions shall fall due on such days as may be specified in the regulations.

40. Principal employer to pay contributions in the first instance.—

(1) The principal employer shall pay in respect of every employee, whether directly employed by him or by or through an immediate employer, both the employer's contribution and the employee's contribution.

(2) Notwithstanding anything contained in any other enactment but subject to the provisions of this Act and the regulations, if any, made thereunder, the principal employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by deduction from his wages and not otherwise:

²See s. n. 3 at p. 291, *ante*.

Provided that no such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable, or in excess of the sum representing the employee's contribution for the period.

(3) Notwithstanding any contract to the contrary, neither the principal employer nor the immediate employer shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover it from him.

(4) Any sum deducted by the principal employer from wages under this Act shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(5) The Principal employer shall bear the expenses of remitting the contributions to the Corporation.

41. Recovery of contribution from immediate employer.—(1) A principal employer, who has paid contribution in respect of an employee employed by or through an immediate employer, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any) from the immediate employer, either by deduction from any amount payable to him by the principal employer under any contract, or as a debt payable by the immediate employer.

(2) In the case referred to in sub-section (1), the immediate employer shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from wages and not otherwise, subject to the conditions specified in the proviso to sub-section (2) of section 40.

Explanation.—For the purposes of sections 40 and 41, wages shall be deemed to include payment to an employee in respect of any period of authorised leave, lock-out or legal strike.

42. General provisions as to payment of contributions.—(1) No employee's contribution shall be payable by or on behalf of an employee whose average daily wages are below one rupee.

Explanation.—The average daily wages of an employee shall be calculated in the manner specified in the First Schedule.

(2) Contribution (both the employer's contribution and the employee's contribution) shall be payable by the principal employer for each week during the whole or part of which an employee is employed.

(3) Where wages are payable to an employee for a portion of the week, the employer shall be liable to pay both the employer's contribution and the employee's contribution for the week in full but shall be entitled to recover from the employee the employee's contribution.

(4) No contribution shall be payable in respect of an employee for any week during the whole of which no services are rendered by an employee and in respect of which no wages are payable to him.

(5) Notwithstanding the provisions of sub-section (4), contribution shall be payable, in respect of any week during which no services are rendered by and no wages are paid to an employee, at the rate at which contribution was last paid, where the failure to render such services is due to the employee being on authorised leave, or is due to a lock-out or a legal strike, if in respect of the period covered by such legal strike the employee receives wages in full or in part.

43. Method of payment of contribution.—Subject to the provisions of this Act, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Act and without prejudice to the generality of the foregoing power such regulations may provide for—

- (a) the manner and time of payment of contributions;
- (b) the payment of contributions by means of adhesive or other stamps affixed to or impressed upon books, cards or otherwise and regulating the manner, times and conditions in, at and under which, such stamps are to be affixed or impressed;
- (c) the entry in or upon books or cards of particulars of contributions paid and benefits distributed in the case of the insured persons to whom such books or cards relate; and
- (d) the issue, sale, custody, production, inspection and delivery of books or cards and the replacement of books or cards which have been lost, destroyed or defaced.

***[44. Employers to furnish returns and maintain registers in certain cases.**—(1) Every principal and immediate employer shall submit to the Corporation or to such officer of the Corporation as it may direct such returns in such form and containing such particulars relating to persons employed by him or to any factory or establishment in respect of which he is the principal or immediate employer as may be specified in regulations made in this behalf.

(2) Where in respect of any factory or establishment the Corporation has reason to believe that a return should have been submitted under sub-section (1) but has not been so submitted, the Corporation may require any person in charge of the factory or establishment to furnish such particulars as it may consider necessary for the purpose of enabling the Corporation to decide whether the factory or establishment is a factory or establishment to which this Act applies.

(3) Every principal and immediate employer shall maintain such registers or records in respect of his factory or establishment as may be required by regulations made in this behalf.]

45. Inspectors, their functions and duties.—(1) The Corporation may appoint such persons as Inspectors, as it thinks fit, for the purposes of this Act, within such local limits as it may assign to them.

(2) Any Inspector appointed by the Corporation under sub-section (1) (hereinafter referred to as Inspector), or other official of the

*Subs. for original sec. 44 by Act 53 of 1951.

Corporation authorised in this behalf by it may, for the purposes of enquiring into the correctness of any of the particulars stated in any return referred to in section 44 or for the purpose of ascertaining whether any of the provisions of this Act has been complied with—

(a) require any principal or immediate employer to furnish to him such information as he may consider necessary for the purposes of this Act; or

(b) at any reasonable time enter any office, establishment, factory or other premises occupied by such principal or immediate employer and require any person found in charge thereof to produce to such Inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine, with respect to any matter relevant to the purposes aforesaid, the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises, or any person whom the said Inspector or other official has reasonable cause to believe to be or to have been an employee.

*[(d) make copies of, or take extracts from, any register, account book or other document maintained in such factory, establishment, office or other premises;

(e) exercise such other powers as may be prescribed.]

(3) An Inspector shall exercise such functions and perform such duties as may be authorised by the Corporation or as may be specified in the regulations.

CHAPTER V

BENEFITS

46. Benefits.—(1) Subject to the provisions of this Act, the insured persons or, as the case may be, their dependants shall be entitled to the following benefits, namely:—

(a) periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner (hereinafter referred to as sickness benefit);

(b) periodical payments in case of confinement to an insured woman, certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit);

(c) periodical payments to an insured person suffering from disablement as a result of an employment injury sustained as an employee under this Act and certified to be eligible for such payments by an authority in this behalf by the regulations (hereinafter referred to as disablement benefit);

(d) periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee

*Inserted by Act 53 of 1951.

under this Act, as are entitled to compensation under this Act (hereinafter referred to as dependants' benefit); and

(e) medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit).

(2) The Corporation may, at the request of the appropriate Government and subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an insured person.

47. When person eligible for sickness benefit.—A person shall be qualified to claim sickness benefit during any benefit period, if during the corresponding contribution period, weekly contributions in respect of him were payable for not less than two-thirds of the number of weeks during which he shall be deemed to have been available for employment within the meaning of section 48, subject to a minimum of twelve contributions:

Provided that the Corporation may waive the minimum number of contributions during the first contribution period.

48. When person deemed available for employment.—A person shall always be deemed to have been available for employment in any week, except when during the whole of such week,—

(a) he was unable to work on account of sickness which had been duly certified, whether entitling him to receive sickness benefit or not, or

(b) he was qualified to receive disablement benefit for temporary disablement, or

(c) in the case of an insured woman, she was entitled to the maternity benefit provided in section 50 or she would have been entitled to such benefit if she had fulfilled all other conditions entitling her thereto.

49. Sickness benefit.—Subject to the provisions of this Act and the regulations, if any, a person qualified to claim sickness benefit in accordance with section 47 shall be entitled to receive such benefit at the rates specified in the Second Schedule for the period of his sickness:

Provided that he shall not be entitled to the benefit for an initial waiting period of two days except in the case of a spell of sickness following, at an interval of not more than fifteen days, the spell of sickness for which sickness benefit was last paid:

Provided further that sickness benefit shall not be paid to any person for a number of days in excess of the number which taken together with the number of days for which he has already received the benefit makes up a total of fifty-six days during any continuous period of three hundred and sixty-five days.

50. Maternity benefit.—(1) An insured woman shall be qualified to claim maternity benefit for a confinement ¹[occurring or expected to occur] in a benefit period if during the corresponding contribution period, weekly contributions in respect of her were payable for not less

¹Subs. for "occurring" by Act 53 of 1951.

than two-thirds of the number of weeks during which she shall be deemed to have been available for employment within the meaning of section 48, subject to a minimum of twelve contributions:

Provided that at least one contribution has been paid between thirty-five and forty weeks before the week in which the confinement takes place or in which notice of pregnancy is given before confinement whichever is more advantageous to the insured person.

(2) Subject to the provisions of this Act, and the regulations, if any, an insured woman who is qualified to claim maternity benefit in accordance with sub-section (1) shall be entitled to receive it at ¹[the daily rate specified in sub-section (3)] for all days on which she does not work for remuneration during a period of twelve weeks of which not more than six shall precede the expected date of confinement.

²[(3) The daily rate referred to in sub-section (2) shall be—

(i) the rate at which the insured woman could have claimed sickness benefit for any period of sickness during the benefit period in which the confinement occurs or is expected to occur if she had been qualified to claim sickness benefit during that period, or

(ii) twelve annas, whichever is greater.]

51. Disablement benefit.—(1) Subject to the provisions of this Act, and the regulations, if any, disablement benefit shall be payable—

(a) to a person who sustains temporary disablement, during the period of such disablement;

(b) to a person who sustains permanent partial disablement, during his life;

(c) to a person who sustains permanent total disablement, during his life; and

(d) to a person, in all cases of disablement not falling under sub-clauses (a), (b), or (c) of this sub-section, as may be provided in the regulations.

(2) Disablement benefit shall be paid on the scale and subject to the conditions specified in this behalf in the Second Schedule.

52. Dependants' benefit.—Where an insured person dies as a result of an employment injury sustained as an employee under this Act, dependants' benefit shall be payable subject to the provisions of this Act and the regulations, if any, to his dependants at such rates and for such period as is specified in the Second Schedule.

53. Disablement and dependants' benefits.—Where an insured person is or his dependants are entitled to receive or recover, whether from the employer of the insured person or from any other person any compensation or damages under the Workmen's Compensation Act, 1923 (VIII of 1923), or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act, then the following provisions shall apply, namely:—

¹Subs. for "the rate of twelve annas a day" by Act 51 of 1951.

²Inserted by *ibid.*

(i) The insured person shall, in lieu of such compensation or damages, receive the disablement benefit provided by this Act (but subject otherwise to the conditions specified in the Workmen's Compensation Act, 1923 (VIII of 1923)) from the Corporation and not from the employer or other person.

(ii) If the insured person dies as a result of the employment injury sustained as an employee under this Act (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury), dependants' benefit shall be payable at the rates and in the proportion specified in the Second Schedule to his widow or widows during her or their widowhood, and to minor legitimate or adopted sons and minor legitimate unmarried daughters.

(iii) In case the insured person does not leave him surviving any widow or children as mentioned in clause (ii) or in the case of an insured woman if she does not leave her surviving any children as mentioned in clause (ii), dependant's benefit shall be paid to the other dependants of the deceased at such rates as may be determined by the '[Employees' Insurance Court having jurisdiction].

(iv) The amount of dependants' benefit payable under clause (iii) shall not exceed one-half of the amount which would have been payable to the insured person as benefit on permanent total disablement.

(v) Save as modified by this Act, the obligations and liabilities imposed on an employer by the Workmen's Compensation Act, 1923 (VIII of 1923), shall continue to apply to him.

54. Medical examination.—All medical examinations and treatment referred to in the Workmen's Compensation Act, 1923 (VIII of 1923), shall for the purposes of this Act, be carried out by duly appointed medical practitioners.

55. Review of benefits.—(1) Subject to the provisions of this Act, the Corporation may, either of its own motion or on the application of the person receiving the benefit, review the payment of any disablement or dependants' benefit:

Provided that unless otherwise specified in the regulations made in this behalf every application for the review of a disablement benefit shall be accompanied by a certificate of a duly appointed medical officer.]

(2) Subject to the provisions of this Act, '[the Corporation] may, on such review as aforesaid, direct that the '[disablement or dependants' benefit] be continued, increased, reduced or discontinued.

56. Medical benefit.—(1) An insured person or (where such medical benefit is extended to his family) a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.

*Subs. for "Commissioner appointed under the Workmen's Compensation Act, 1923 (VIII of 1923)" by Act 33 of 1931.

*Subs. for original sub-sec. (1) by *ibid.*

*Subs. for "the Commissioner" by *ibid.*

*Subs. for "disablement benefit" by *ibid.*

(2) Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution.

(3) A person shall be entitled to medical benefit during any week for which contributions are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit ¹[or is in receipt of such disablement benefit as does not disentitle him to medical benefit under the regulations]:

Provided that a person in respect of whom contribution ceases to be payable under this Act may be allowed medical benefit for such period and of such nature as may be provided under the regulations.

57. Scale of medical benefit.—(1) An insured person and (where such medical benefit is extended to his family) his family shall be entitled to receive medical benefit only of such kind and on such scale as may be provided by the ²[State Government] or by the Corporation, and an insured person or, where such medical benefit is extended to his family, his family shall not have a right to claim any medical treatment except such as is provided by the dispensary, hospital, clinic or other institution to which he or his family is allotted, or as may be provided by the regulations.

(2) Nothing in this Act shall entitle an insured person and (where such medical benefit is extended to his family) his family to claim reimbursement from the Corporation of any expenses incurred in respect of any medical treatment, except as may be provided by the regulations.

58. Provision of medical treatment by ³[State Government].—(1) The ⁴[State Government] shall provide for insured persons and (where such benefit is extended to their families) their families in the ⁵[State], reasonable medical, surgical and obstetric treatment:

Provided that the ⁶[State Government] may, with the approval of the Corporation, arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as may be agreed upon.

(2) Where the incidence of sickness benefit payment to insured persons in any ⁷[State] is found to exceed the all-India average the amount of such excess shall be shared between the Corporation and the ⁸[State Government] in such proportion as may be fixed by agreement between them:

Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the ⁹[State Government].

¹Subs. for "or as provided under the regulations, is in receipt of disablement benefit" by Act 53 of 1951.

²Subs. for "Provincial Government" by I. A. O., 1950.

³Subs. for "Province" by *ibid.*

(3) The Corporation may enter into an agreement with a ²[State Government] in regard to the nature and scale of the medical treatment that should be provided to insured persons and (where such medical benefit is extended to the families) their families (including provision of buildings, equipment, medicines, and staff) and for the sharing of the cost thereof and of any excess in the incidence of sickness benefit to insured persons between the Corporation and the ²[State Government].

(4) In default of agreement between the Corporation and any ²[State Government] as aforesaid the nature and extent of the medical treatment to be provided by the ²[State Government] and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator (who shall be or shall have been a Judge of the ³[High Court of a State]) appointed by the Chief Justice of India and the award of the arbitrator shall be binding on the Corporation and the ²[State Government].

59. Establishment and maintenance of hospitals etc., by Corporation.—(1) The Corporation may, with the approval of the ²[State Government], establish and maintain in a ²[State] such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of insured persons and (where such medical benefit is extended to their families) their families.

(2) The Corporation may enter into agreement with any ⁴[Part B State], local authority, private body or individual in regard to the provision of medical treatment and attendance for insured persons and (where such medical benefit is extended to their families) their families, in any area and sharing the cost thereof.

GENERAL

60. Benefit not assignable or attachable.—(1) The right to receive any payment of any benefit under this Act shall not be transferable or assignable.

(2) No cash benefit payable under this Act shall be liable to attachment or sale in execution of any decree or order of any Court.

61. Bar of benefits under other enactments.—When a person is entitled to any of the benefits provided by this Act, he shall not be entitled to receive any similar benefits admissible under the provisions of any other enactment.

62. Persons not to commute cash benefits.—Save as may be provided in the regulations no person shall be entitled to commute for a lump sum any periodical payment admissible under this Act.

¹Subs. for "Province" by I. A. O., 1950.

²Subs. for "Provincial Government" by *ibid.*

³Subs. by Act 53 of 1951 for "High Court for a Part A State" which had been subs. for "High Court of a Province" by I. A. O., 1950.

⁴Subs. for "Indian State" by I. A. O., 1950.

63. Persons not entitled to receive benefits in certain cases.—No person shall be entitled to sickness benefit or maternity benefit, or disablement benefit for temporary disablement in respect of any day on which he works and receives wages.

64. Recipients of sickness or disablement benefit to observe conditions.—A person who is in receipt of sickness benefit or disablement benefit (other than benefit granted on permanent disablement)—

(a) shall remain under medical treatment at a dispensary, hospital, clinic or other institution provided under this Act and shall carry out the instructions given by the medical officer or medical attendant in charge thereof;

(b) shall not while under treatment do anything which might retard or prejudice his chances of recovery;

(c) shall not leave the area in which medical treatment provided by this Act is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf by the regulations; and

(d) shall allow himself to be examined by any duly appointed medical officer or sick visitor or other person authorised by the Corporation in this behalf.

65. Benefits not to be combined.—(1) An insured person shall not be entitled to receive for the same period—

(a) both sickness benefit and maternity benefit; or

(b) both sickness benefit and disablement benefit for temporary disablement; or

(c) both maternity benefit and disablement benefit for temporary disablement.

(2) Where a person is entitled to more than one of the benefits mentioned in sub-section (1), he shall be entitled to choose which benefit he shall receive.

66. Corporation's right to recover damages from employer in certain cases.—(1) Where any employment injury is sustained by an insured person as an employee under this Act by reason of the negligence of the employer to observe any of the safety rules laid down by or under any enactment applicable to a factory or establishment or by reason of any wrongful act of the employer or his agent, the Corporation shall notwithstanding the fact that the employer has paid the weekly contributions due under this Act in respect of such insured person be entitled to be reimbursed by the employer or the principal who is liable to pay compensation under section 12 of the Workmen's Compensation Act, 1923 (VIII of 1923), the actuarial present value of the periodical payments which the Corporation is liable to make under this Act.

(2) For the purposes of this Act, the actuarial present value of the periodical payments shall be determined in such manner as may be specified in the regulations.

67. Corporation's right to be indemnified in certain cases.—Where an insured person is entitled to receive or to recover (but has not received

or recovered), whether from his employer or any other person, compensation or damages under any law for the time being in force in respect of any employment injury caused under circumstances creating a legal liability in some person other than the employer or his agent, the Corporation shall be entitled to be indemnified by the person so liable:

Provided that the Corporation shall not be entitled to be indemnified by an employer who has paid contributions in respect of the employee sustaining the employment injury as an employee under this Act, except in cases covered by section 66.

68. Corporation's rights where a principal employer fails or neglects to pay any contribution.—(1) If any principal employer fails or neglects to pay any contribution which under this Act he is liable to pay in respect of any employee and by reason thereof such person becomes disentitled to any benefit or entitled to a benefit on a lower scale, the Corporation may, on being satisfied that the contribution should have been paid by the principal employer, pay to the person the benefit at the rate to which he would have been entitled if the failure or neglect had not occurred and the Corporation shall be entitled to recover from the principal employer either—

"[(i) the difference between the amount of benefit which is paid by the Corporation to the said person and the amount of the benefit which would have been payable on the basis of the contributions which were in fact paid by the employer; or]

(ii) twice the amount of the contribution which the employer failed or neglected to pay,
whichever is greater.

(2) The amount recoverable under this section may be recovered as if it were an arrear of land-revenue.

69. Liability of owner or occupier of factories, etc., for excessive sickness benefit.—(1) Where the Corporation considers that the incidence of sickness among insured persons is excessive by reason of—

(i) insanitary working conditions in a factory or establishment or the neglect of the owner or occupier of the factory or establishment to observe any health regulations enjoined on him by or under any enactment; or

(ii) insanitary conditions of any tenements or lodgings occupied by insured persons and such insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined on him by or under any enactment,

the Corporation may send to the owner or occupier of the factory or establishment or to the owner of the tenements or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the Corporation as sickness benefit; and if the claim is not settled by agreement, the Corporation may refer the matter, with a statement in support of its claim, to the appropriate Government.

*Subs. for original clause (i) by Act 53 of 1951.

(2) If the appropriate Government is of opinion that a *prima facie* case for inquiry is disclosed, it may appoint a competent person or persons to hold an inquiry into the matter.

(3) If upon such inquiry it is proved to the satisfaction of the person or persons holding the inquiry that the excess in incidence of sickness among the insured persons is due to the default or neglect of the owner or occupier of the factory or establishment or the owner of the tenements or lodgings, as the case may be, the said person or persons shall determine the amount of the extra expenditure incurred as sickness benefit, and the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.

(4) A determination under sub-section (3) may be enforced as if it were a decree for payment of money passed in a suit by a Civil Court.

(5) For the purposes of this section, "owner" of tenements or lodgings shall include any agent of the owner and any person who is entitled to collect the rent of the tenements or lodgings as a lessee of the owner.

70. Repayment of benefit improperly received.—(1) Where any person has received any benefit or payment under this Act when he is not lawfully entitled thereto, he shall be liable to repay to the Corporation the value of the benefit or the amount of such payment, or in the case of his death his representative shall be liable to repay the same from the assets of the deceased, if any, in his hands.

(2) The value of any benefits received other than cash payments shall be determined by such authority as may be specified in the regulations made in this behalf and the decision of such authority shall be final.

(3) The amount recoverable under this section may be recovered as if it were an arrear of land-revenue.

71. Benefit payable upto and including day of death.—If a person dies during any period for which he is entitled to a cash benefit under this Act, the amount of such benefit up to and including the day of his death shall be, paid to any person nominated by the deceased person in writing in such form as may be specified in the regulations or, if there is no such nomination, to the heir or legal representative of the deceased person.

72. Employer not to reduce wages, etc.—No employer by reason only of his liability for any contributions payable under this Act shall, directly or indirectly reduce the wages of any employee, or except as provided by the regulations, discontinue or reduce benefits payable to him under the conditions of his service which are similar to the benefits conferred by this Act.

73. Employer not to dismiss or punish employee during period of sickness, etc.—(1) No employer shall dismiss, discharge, or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit or maternity benefit, nor shall he, except as

provided under the regulations, dismiss, discharge or reduce or otherwise punish an employee during the period he is in receipt of disablement benefit for temporary disablement or is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the regulations to arise out of the pregnancy or confinement rendering the employee unfit for work.

(2) No notice of dismissal or discharge or reduction given to an employee during the period specified in sub-section (1) shall be valid or operative.

*[CHAPTER V-A.

TRANSITORY PROVISIONS.

73A. Employer's special contribution.—(1) For so long as the provisions of this Chapter are in force, every principal employer shall, notwithstanding anything contained in this Act, pay to the Corporation a special contribution (hereinafter referred to as the employer's special contribution) at the rate specified under sub-section (3).

(2) The employer's special contribution shall, in the case of a factory or establishment situate in any area in which the provisions of both Chapters IV and V are in force, be in lieu of the employer's contribution payable under Chapter IV.

(3) The employer's special contribution shall consist of such percentage, not exceeding five per cent. of the total wage bill of the employer, as the Central Government may, by notification^a in the Official Gazette, specify from time to time:

Provided that before fixing or varying any such percentage the Central Government shall give by like notification not less than two months' notice of its intention so to do and shall in such notification specify the percentage which it proposes to fix or, as the case may be, the extent to which the percentage already fixed is to be varied:

Provided further that the employer's special contribution in the case of factories or establishments situate in any area in which the provisions of both Chapters IV and V are in force shall be fixed at a rate higher than that in the case of factories or establishments situate in any area in which the provisions of the said Chapters are not in force.

(4) The employer's special contribution shall fall due as soon as the liability of the employer to pay wages accrues, but may be paid to the Corporation at such intervals, within such time and in such manner as the Central Government may, by notification^b in the Official Gazette,

^a Chap. V-A inserted by Act 53 of 1951.

^b See Notification No. S. R. O. 253, dated 1st February, 1952, fixing the employer's special contribution, published in the Gazette of India, dated 9th February, 1952, Pt. II—Sec. 3, p. 272 and also see p. 400, *infra*.

^c See Notification No. S. R. O. 279, dated 6th February, 1952, providing for payment of employees' special contribution, published in the Gazette of India, dated 16th February, 1952, Pt. II—Sec. 3, pp. 279-284 and also see pp. 400-406, *infra*.

specify, and any such notification may provide for the grant of a rebate for prompt payment of such contribution.

Explanation.—"Total wage bill" in this section means the total wages which have accrued due to employees in a factory or establishment in respect of such wage periods as may be specified for the purposes of this section by the Central Government by notification in the Official Gazette.

73B. *Special tribunals for decision of disputes or questions under this Chapter where there is no Employees' Insurance Court.*—(1) If any question or dispute arises in respect of the employer's special contribution payable or recoverable under this Chapter and there is no Employees' Insurance Court having jurisdiction to try such question or dispute, the question or dispute shall be decided by such authority as the Central Government may specify in this behalf.

(2) The provisions of sub-section (1) of section 76, sections 77 to 79 and 81 shall, so far as may be, apply in relation to a proceeding before an authority specified under sub-section (1) as they apply in relation to a proceeding before an Employees' Insurance Court.

73C. *Benefits under Chapter V to depend upon employee's contribution.*—The payment of the employee's contribution for any week in accordance with the provisions of Chapter IV in any area where all the provisions of that Chapter are in force shall for the purpose of Chapter V, have effect as if the contributions payable under Chapter IV in respect of that employee for that week had been paid, and shall accordingly entitle the employee as an insured person to the benefits specified in Chapter V if he is otherwise entitled thereto.

Explanation.—In the case of an exempted employee, the employee's contribution shall be deemed to have been paid for a week if the Corporation is satisfied that during that week the employer's contribution under Chapter IV would have been payable in respect of him but for the provisions of this Chapter.

73D. *Mode of recovery of employer's special contribution.*—The employer's special contribution payable under this Chapter may be recovered as if it were an arrear of land revenue.

73E. *Power to call for additional information or return.*—Without prejudice to the other provisions contained in this Act, the Corporation may, for the purpose of determining whether the employer's special contribution is payable under this Chapter or for determining the amount thereof, by general or special order, require any principal or immediate employer or any other person to furnish such information or returns to such authority, in such form and within such time as may be specified in the order.

73F. *Power to exempt to be exercised by Central Government alone in respect of employer's special contributions.*—Notwithstanding anything contained in this Act, the Central Government may, having regard to the size or location of, or the nature of the industry carried

on in, any factory or establishment or class of factories or establishments, exempt the factory or establishment or class of factories or establishments from the payment of the employer's special contribution under this Chapter and nothing contained in sections 87 to 91 inclusive shall be deemed to authorise any State Government to grant any such exemption.

73G. *Application of certain provisions of this Act to employer's special contribution.*—Save as otherwise expressly provided in this Chapter, the provisions of Chapter IV, section 72 and Chapter VII and any rules and regulations made under this Act shall, so far as may be, apply in relation to the payment or recovery of employer's special contributions, the penalties specified in connection therewith and all other matters incidental thereto as they would have applied in relation to an employer's contribution if this Chapter were not in force and the employer's contribution had been payable under this Act.

73H. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may, by order notified in the Official Gazette, make such provision or give such direction as appear to it to be necessary for the removal of the difficulty.

(2) Any order made under this section shall have effect notwithstanding anything inconsistent therewith in any rules or regulations made under this Act.

73I. *Duration of Chapter V-A.*—The Central Government may, by notification in the Official Gazette, direct that the provisions of this Chapter shall cease to have effect on such date as may be specified in the notification, not being a date earlier than three months from the date of the notification:

Provided that on the provisions of this Chapter so ceasing to have effect the provisions of section 6 of the General Clauses Act, 1897 (X of 1897), shall apply as if the provisions of this Chapter had then been repealed by a Central Act.]

CHAPTER VI

ADJUDICATION OF DISPUTES AND CLAIMS.

74. *Constitution of Employees' Insurance Court.*—(1) The "[State Government]" shall, by notification in the official Gazette, constitute an Employees' Insurance Court for such local area as may be specified in the notification.

(2) The Court shall consist of such number of Judges as the "[State Government]" may think fit.

(3) Any person who is or has been a judicial officer or is a legal practitioner of five years' standing shall be qualified to be a Judge of the Employees' Insurance Court.

*Subs. for "Provincial Government" by I. A. O., 1950.

(4) The ²[State Government] may appoint the same Court for two or more local areas or two or more Courts for the same local area.

(5) Where more than one Court has been appointed for the same local area, the ²[State Government] may by general or special order regulate the distribution of business between them.

75. Matters to be decided by Employees' Insurance Court.—(1) If any question or dispute arises as to—

(a) whether any person is an employee within the meaning of this Act or whether he is liable to pay the employee's contribution, or

(b) the rate of wages or average daily wages of an employee for the purposes of this Act, or

(c) the rate of contribution payable by a principal employer in respect of any employee, or

(d) the person who is or was the principal employer in respect of any employee, or

(e) the right of any person to any benefit and as to the amount and duration thereof, or

¹[(ee) any direction issued by the Corporation under section 55 on a review of any payment of disablement or dependants' benefits;]

(f) the actuarial present value of the periodical payments referred to in section 66, or

(g) any other matter which is in dispute between a principal employer and the Corporation, or between a principal employer and an immediate employer, or between a person and the Corporation or between an employee and a principal or immediate employer, in respect of any contribution or benefit or other dues payable or recoverable under this Act,

such question or dispute shall be decided by the Employees' Insurance Court in accordance with the provisions of this Act.

(2) The following claims shall be decided by the Employees' Insurance Court, namely:—

(a) claim for the recovery of contributions from the principal employer;

(b) claim by a principal employer to recover contributions from any immediate employer;

(c) claim under section 66 or 67 made by the Corporation against the employer or other person liable thereunder;

(d) claim against a principal employer under section 68;

(e) claim under section 70 for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto; and

(f) any claim for the recovery of any benefit admissible under this Act.

²Subs. for "Provincial Government" by L. A. O., 1950.

¹Inserted by Act 53 of 1951.

(3) No Civil Court shall have jurisdiction to decide or deal any question or dispute as aforesaid or to adjudicate on any liability which by or under this Act is to be decided by the Employees' Insurance Court.

76. Institution of proceedings, etc.—(1) Subject to the provisions of this Act and any rules made by the ²[State Government], all proceedings before the Employees' Insurance Court shall be instituted in the Court appointed for the local area in which the insured person was working at the time the question or dispute arose.

(2) If the Court is satisfied that any matter arising out of any proceeding pending before it can be more conveniently dealt with by any other Employees' Insurance Court in the same ¹[State], it may, subject to any rules made by the ²[State Government] in this behalf, order such matter to be transferred to such other Court for disposal and shall forthwith transmit to such other Court the records connected with that matter.

(3) The ²[State Government] may transfer any matter pending before any Employees' Insurance Court in the ¹[State] to any such Court in another ¹[State] with the consent of the ²[State Government] of that ¹[State].

(4) The Court to which any matter is transferred under sub-section (2) or sub-section (3) shall continue the proceedings as if they had been originally instituted in it.

77. Commencement of proceedings.—(1) The proceedings before an Employees' Insurance Court shall be commenced by application.

(2) Every such application shall be in such form and shall contain such particulars and shall be accompanied by such fee, if any, as may be prescribed by rules made by the ²[State Government] in consultation with the Corporation.

78. Powers of Employees' Insurance Court.—(1) The Employees' Insurance Court shall have all the powers of a Civil Court for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence and such Court shall be deemed to be a Civil Court within the meaning of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

(2) The Employees' Insurance Court shall follow such procedure as may be prescribed by rules made by the ²[State Government].

(3) All costs incidental to any proceeding before an Employees' Insurance Court shall, subject to such rules as may be made in this behalf by the ²[State Government], be in the discretion of the Court.

(4) An order of the Employees' Insurance Court shall be enforceable as if it were a decree passed in a suit by a Civil Court.

79. Appearance by legal practitioners, etc.—Any application,

¹Subs. for "Province" by I. A. O., 1950.

²Subs. for "Provincial Government" by *ibid*.

appearance or act required to be made or done by any person to or before an Employees' Insurance Court (other than appearance of a person required for the purpose of his examination as a witness) may be made or done by a legal practitioner or by an officer of a registered trade union authorised in writing by such person or with the permission of the Court, by any other person so authorised.

80. Benefit not admissible unless claimed in time.—An Employees' Insurance Court shall not direct the payment of any benefit to a person unless he has made a claim for such benefit in accordance with the regulations made in that behalf, within twelve months after the claim became due:

Provided that if the Court is satisfied that there was reasonable excuse for not making a claim for the benefit within twelve months after it became due, it may direct the payment of the benefit as if the claim had been made in time.

81. Reference to High Court.—An Employees' Insurance Court may submit any question of law for the decision of the High Court and if it does so shall decide the question pending before it in accordance with such decision.

82. Appeal.—(1) Save as expressly provided in this section, no appeal shall lie from an order of an Employees' Insurance Court.

(2) An appeal shall lie to the High Court from an order of an Employees' Insurance Court if it involves a substantial question of law.

(3) The period of limitation for an appeal under this section shall be sixty days.

(4) The provisions of sections 5 and 12 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to appeals under this section.

83. Stay of payment pending appeal.—Where the Corporation has presented an appeal against an order of the Employees' Insurance Court, that Court may, and if so directed by the High Court shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.

CHAPTER VII.

PENALTIES.

84. Punishment for false statement.—Whoever, for the purpose of causing any increase in payment or benefit under this Act, or for the purpose of causing any payment or benefit to be made where no payment or benefit is authorized by or under this Act, or for the purpose of avoiding any payment to be made by himself under this Act or enabling any other person to avoid any such payment, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to three months, or with fine not exceeding five hundred rupees, or with both.

85. Punishment for failure to pay contributions, etc.—If any person—

(a) fails to pay any contribution which under this Act he is liable to pay, or

(b) deducts or attempts to deduct from the wages of an employer the whole or any part of the employer's contribution, or

(c) in contravention of section 72 reduces the wages or any privileges or benefits admissible to an employee, or

(d) in contravention of section 73 or any regulation dismisses, discharges, reduces or otherwise punishes an employee, or

(e) fails or refuses to submit any return required by the regulations or makes a false return, or

(f) obstructs any Inspector or other official of the Corporation in the discharge of his duties, or

(g) is guilty of any contravention of or non-compliance with any of the requirements of this Act or the rules or the regulations in respect of which no special penalty is provided,

he shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

86. Prosecutions.—(1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Insurance Commissioner ³[or of such other officer of the Corporation as may be authorised in this behalf by the Central Government].

(2) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(3) No Court shall take cognizance of any offence under this Act except on a complaint made in writing in respect thereof, within six months of the date on which the offence is alleged to have been committed.

CHAPTER VIII.

MISCELLANEOUS.

87. Exemption of a factory or establishment or class of factories or establishments.—The appropriate Government may, by notification in the official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or establishment or class of factories or establishments in any specified area from the operation of this Act for a period not exceeding one year and may from time to time by like notification renew any such exemption for periods not exceeding one year at a time.

88. Exemption of persons or class of persons.—The appropriate Government may, by notification in the official Gazette and subject to such conditions as it may deem fit to impose, exempt any persons or class of persons employed in any factory or establishment or class of factories or establishments to which this Act applies from the operation of the Act.

³Inserted by Act 53 of 1951.

89. Corporation to make representation.—No exemption shall be granted or renewed under section 87 or section 88, unless a reasonable opportunity has been given to the Corporation to make any representation it may wish to make in regard to the proposal and such representation has been considered by the appropriate Government.

90. Exemption of factories or establishments belonging to Government or any local authority.—The appropriate Government may, by notification in the official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or establishment belonging to the ¹[Government] or any local authority, if the employees in any such factory or establishment are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act.

91. Exemption from one or more provisions of the Act.—The appropriate Government may, with the consent of the Corporation, by notification in the official Gazette, exempt any employees or class of employees in any factory or establishment or class of factories or establishments from one or more of the provisions relating to the benefits provided under this Act.

92. Power of Central Government to give directions.—The Central Government may give directions to a ¹[State Government] as to the carrying into execution of this Act in the ²[State].

93. Corporation officers and servants to be public servants.—All officers and servants of the Corporation shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

94. Contributions, etc., due to Corporation to have priority over other debts.—There shall be deemed to be included among the debts which, under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920) ³[or under any law relating to insolvency in force in a Part B State], or under section 230 of the Indian Companies Act, 1913 (VII of 1913), are, in the distribution of the property of the insolvent or in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, the amount due in respect of any contribution or any other amount payable under this Act the liability wherefor accrued before the date of the order or adjudication of the insolvent or the date of the winding up, as the case may be.

***[94A. Delegation of powers.**—The Corporation, and, subject to any regulations made by the Corporation in this behalf, the Standing Committee may direct that all or any of the powers and functions which may be exercised or performed by the Corporation or the Standing Committee, as the case may be, may, in relation to such matters and

¹Subs. for "Crown" by I. A. O., 1950.

²Subs. for "Provincial Government" by *ibid.*

³Subs. for "Province" by *ibid.*

⁴Inserted by Act 53 of 1951.

⁵Inserted by Act 53 of 1951.

subject to such conditions, if any, as may be specified, be also exercisable by any officer or authority subordinate to the Corporation.]

95. Power of Central Government to make rules.—(1) The Central Government may, subject to the condition of previous publication, make rules^b not inconsistent with this Act for the purpose of giving effect to the provisions thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which nominations and elections of members of the Corporation, the Standing Committee and the Medical Benefit Council shall be made;

(b) the quorum at meetings of the Corporation, the Standing Committee and the Medical Benefit Council and the minimum number of meetings of those bodies to be held in a year;

(c) the records to be kept of the transaction of business by the Corporation, the Standing Committee and the Medical Benefit Council;

(d) the powers and duties of the Principal Officers and the conditions of their service;

(e) the powers and duties of the Medical Benefit Council;

(f) the procedure to be adopted in the execution of contracts;

(g) the acquisition, holding and disposal of property by the Corporation;

(h) the raising and repayment of loans;

(i) the investment of the funds of the Corporation and of any provident or other benefit fund and their transfer or realisation;

(j) the basis on which the periodical valuation of the assets and liabilities of the Corporation shall be made;

(k) the bank or banks in which the funds of the Corporation may be deposited, the procedure to be followed in regard to the crediting of moneys accruing or payable to the Corporation and the manner in which any sums may be paid out of the Corporation funds and the officers by whom such payments may be authorised;

(l) the accounts to be maintained by the Corporation and the forms in which such accounts shall be kept and the times at which such accounts shall be audited;

(m) the publication of the accounts of the Corporation and the report of auditors, the action to be taken on the audit report, the powers of auditors to disallow and surcharge items of expenditure and the recovery of sums so disallowed or surcharged;

(n) the preparation of budget estimates and of supplementary estimates and the manner in which such estimates shall be sanctioned and published;

^bFor such rules, viz., The Employees' State Insurance (Central) Rules, 1950, Notification No. S. R. O. 212, dated 22nd June, 1950 (pub. in Gazette of India, dated 28th October, 1950); and see also p. 334, *et seq.*, *infra*.

(o) the establishment and maintenance of provident or other benefit fund for officers and servants of the Corporation; and

(p) any matter which is required or allowed by this Act to be prescribed by the Central Government.

(3) Rules made under this section shall be published in the official Gazette and thereupon shall have effect as if enacted in this Act.

96. Power of ¹[State Government] to make rules.—(1) The ²[State Government] may, subject to the condition of previous publication, make rules³ not inconsistent with this Act in regard to all or any of the following matters, namely:—

(a) the constitution of Employees' Insurance Courts, the qualifications of persons who may be appointed Judges thereof, and the conditions of service of such Judges;

(b) the procedure to be followed in proceedings before such Courts and the execution of orders made by such Courts;

(c) the fee payable in respect of applications made to the Employees' Insurance Court, the costs incidental to the proceedings in such Court, the form in which applications should be made to it and the particulars to be specified in such applications;

(d) the establishment of hospitals, dispensaries and other institutions, the allotment of insured persons or their families to any such hospital, dispensary or other institution;

(e) the scale of medical benefit which shall be provided at any hospital, clinic, dispensary or institution, the keeping of medical records and the furnishing of statistical returns;

(f) the nature and extent of the staff, equipment and medicines that shall be provided at such hospitals, dispensaries and institutions;

(g) the conditions of service of the staff employed at such hospitals, dispensaries and institutions; and

(h) any other matter which is required or allowed by this Act to be prescribed by the ¹[State Government].

(2) Rules made under this section shall be published in the official Gazette and thereupon shall have effect as if enacted in this Act.

97. Power of Corporation to make regulations.—(1) The Corporation may, subject to the condition of previous publication, make regulations⁴ not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation and for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

¹Subs. for "Provincial Government" by I. A. O., 1950.

²Different State Governments have framed rules under this section for their respective areas.

³For such regulations, viz. The Employees' State Insurance (General) Regulations, 1950, see Notification No. RS 5/48, dated 17th October, 1950 and see also pp. 351-398, *infra*.

(i) the time and place of meetings of the Corporation, the Standing Committee and the Medical Benefit Council and the procedure to be followed at such meetings;

(ii) the matters which shall be referred by the Standing Committee to the Corporation for decision;

(iii) the manner in which any contribution payable under this Act shall be assessed and collected;

(iv) reckoning of wages for the purpose of fixing the contribution payable under this Act;

(v) the certification of sickness and eligibility for any cash benefit;

(vi) the method of determining the actuarial present value of periodical payments;

(vii) the assessing of the money value of any benefit which is not a cash benefit;

(viii) the time within which and the form in which any claim for a benefit may be made and the particulars to be specified in such claim;

(ix) the circumstances in which an employee in receipt of disablement benefit may be dismissed, discharged, reduced or otherwise punished;

(x) the manner in which and the place and time at which any benefit shall be paid;

(xi) the method of calculating the amount of cash benefit payable and the circumstances in which and the extent to which commutation of disablement and dependant's benefits, may be allowed and the method of calculating the commutation value;

(xii) the notice of pregnancy or of confinement and notice and proof of sickness;

(xiii) the conditions under which any benefit may be suspended;

(xiv) the conditions to be observed by a person when in receipt of any benefit and the periodical medical examination of such persons;

(xv) the visiting of sick persons;

(xvi) the appointment of medical practitioners for the purposes of this Act, the duties of such practitioners and the form of medical certificates;

(xvii) the penalties for breach of regulations by fine (not exceeding two days' wages for a first breach and not exceeding three days' wages for any subsequent breach) which may be imposed on employees;

(xviii) the circumstances in which and the conditions subject to which any regulation may be relaxed, the extent of such relaxation, and the authority by whom such relaxation may be granted;

*[(xix) the returns to be submitted and the registers or records to be maintained by the principal and immediate employers, the forms of such returns, registers or records, and the times at which such returns

*Subs. for original cl. (xix) by Act 53 of 1951.

should be submitted and the particulars which such returns, registers or records should contain;]

(xx) the duties and powers of Inspectors and other officers and servants of the Corporation;

¹[(xxi) the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the officers and servants of the Corporation other than the Principal Officers;]

(xxii) the procedure to be followed in remitting contributions to the Corporation; and

(xxiii) any matter in respect of which regulations are required or permitted to be made by this Act.

²[(2A) The condition of previous publication shall not apply to any regulations of the nature specified in clause (xxi) of sub-section (2).]

(3) Regulations made by the Corporation shall be published in the Gazette of India and thereupon shall have effect as if enacted in this Act.

98. [*Corporation may undertake duties in Part B States*].—*Rep. by the Employees' State Insurance (Am.) Act 53 of 1951.*

99. *Enhancement of benefits.*—At any time when its funds so permit, the Corporation may enhance the scale of any benefit admissible under this Act and the period for which such benefit may be given, and provide or contribute towards the cost of medical care for the families of insured persons.

³[100. *Repeals and savings.*—If, immediately before the day on which this Act comes into force in a Part B State, there is in force in that State any law corresponding to this Act, that law shall, on such day, stand repealed:

Provided that the repeal shall not affect—

(a) the previous operations of any such law, or

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such law, or

(c) any investigation or remedy in respect of any such penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:

Provided further that subject to the preceding proviso anything done or any action taken under any such law shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless and until superseded by anything done or any action taken under this Act.]

¹Subs. for original cl. (xxi) by Act 53 of 1951.

²Inserted by *ibid.*

³Inserted by *ibid.*

SCHEDULE I

(See section 39)

1. The amount of weekly contribution payable in respect of an employee shall be calculated with reference to his average daily wages.

^a[2. The average daily wages shall be—

(a) in respect of an employee whose wage period is a day, the amount of wages earned during the week divided by the number of days worked in the week;

(b) in respect of an employee employed on the basis of any other wage period, the amount of wages earned in that wage period in which the contribution falls due divided by the number of days worked in such wage period;

(c) in respect of an employee employed on any other basis, the amount calculated on the basis of wages earned for the day on which the contribution falls due or on such other day as may be specified in the regulations in this behalf.

Explanation I.—Subject to any regulations made in this behalf, the term "days worked" means the number of days on which the employee worked for wages.

Explanation II.—Where any night shift continues beyond midnight, the period of the night shift after midnight shall be counted for reckoning the days worked as part of the day preceding.

Explanation III.—Except as provided by regulations, wages, pay, salaries or allowances paid in respect of any period of leave or holidays other than the weekly holidays shall not be taken into account in calculating wages.

Explanation IV.—"Wage period" means the period in respect of which wages are ordinarily payable whether in terms of the contract of employment, express or implied, or otherwise.]

3. (a) For the purposes of fixing the amount of weekly contribution payable, employees shall be divided into eight groups on the basis of their average daily wages ascertained in the manner specified in paragraph 2.

(b) The employees' contribution and employer's contribution payable in respect of the group of employees specified in the first column of the table below shall be at the rates respectively specified in the corresponding entries in the second and third columns thereof.

^aSubs. for original paragraph 2 by Act 53 of 1951.

TABLE

Group of employees	Employees' contribution (recoverable from employees)	Employer's contribution	Total contribution (employees' and employer's contribution)
1	2	3	4
	Rs. A. P.	Rs. A. P.	Rs. A. P.
1. Employees whose average daily wages are below Re. 1	Nil	0 7 0	0 7 0
2. Employees whose average daily wages are Re. 1 and above but below Rs. 1-8-0	0 2 0	0 7 0	0 9 0
3. Employees whose average daily wages are Rs. 1-8-0 and above but below Rs. 2	0 4 0	0 8 0	0 12 0
4. Employees whose average daily wages are Rs. 2 and above but below Rs. 3	0 6 0	0 12 0	1 2 0
5. Employees whose average daily wages are Rs. 3 and above but below Rs. 4	0 8 0	1 0 0	1 8 0
6. Employees whose average daily wages are Rs. 4 and above but below Rs. 6	0 11 0	1 5 0	2 1 0
7. Employees whose average daily wages are Rs. 6 and above but below Rs. 8	0 15 0	1 14 0	2 13 0
8. Employees whose average daily wages are Rs. 8 and above	1 4 0	2 8 0	3 12 0

SCHEDULE II

(See sections 49, 51, 52 and 53)

Sickness Benefit and Disablement and Dependants' Benefits.

1. The average daily wages of an employee in each of the groups specified in the first column of the table below shall, for the purpose of calculating the sickness benefit and disablement and dependants' benefits be assumed to be the rate specified in the corresponding entry in the second column thereof.

TABLE

Group of employees	Average assumed daily wages
1	2
	Rs. A. P.
1. Employees whose average daily wages are below Re. 1	0 14 0
2. Employees whose average daily wages are Re. 1 and above, but below Rs. 1-8-0	1 4 0
3. Employees whose average daily wages are Re. 1-8-0 and above, but below Rs. 2	1 12 0
4. Employees whose average daily wages are Rs. 2 and above, but below Rs. 3	2 8 0
5. Employees whose average daily wages are Rs. 3 and above, but below Rs. 4	3 8 0
6. Employees whose average daily wages are Rs. 4 and above, but below Rs. 6	5 0 0
7. Employees whose average daily wages are Rs. 6 and above, but below Rs. 8	7 0 0
8. Employees whose average daily wages are Rs. 8 and above	10 0 0

2. The daily rate of sickness benefit during any benefit period shall be an amount equivalent to one-half of the sum of the assumed average daily wages as aforesaid for each of the weeks for which contributions were paid in respect of the person during the corresponding contribution period, divided by the number of weeks in that contribution period in which he was deemed to have been available for employment within the meaning of section 48 * [plus the number of any other weeks in that contribution period for which contributions were paid in respect of the person]; provided that where the amount of the benefit so calculated includes a fraction of an anna, it shall be rounded to the next higher anna. The calculation indicated above is illustrated by the following examples:—

Example 1.—If the assumed average daily wages of the person as an employee were Rs. 1/4/- a day for 10 weeks, Rs. 1/12/- a day for 10 weeks and Rs. 2/8/- a day for 6 weeks, the average of the assumed daily wages for the purpose of the rate of sickness benefit will be:—

$$\frac{10 \times 20 + 10 \times 25 + 6 \times 40}{26} = 27 \frac{18}{26}$$

The daily rate of sickness benefit payable in the benefit period will then be 13 $\frac{18}{26}$ annas, rounded to the next higher anna, namely, 14 annas.

Example 2.—If the person was deemed to have been not available for employment for 14 weeks in any contribution period and was employed as an employee for only 12 weeks in that contribution period, his assumed average daily wages being Rs. 1/4/- for the 12 weeks, the

*Inserted by Act 53 of 1951.

average of the assumed daily wages for the purpose of the rate of sickness benefit will be:—

$$\frac{12 \times 20}{(26 - 14)} = 20 \text{ annas.}$$

The daily rate of sickness benefit payable in the benefit period will then be 10 annas.

Example 3.—If the person was deemed to have been not available for employment for 4 weeks in any contribution period and was employed as an employee for only 20 weeks (he having been without any employment for 2 weeks) in that contribution period, his assumed average daily wages being Rs. 1/12/- for 20 weeks, the average of the daily wages for the purpose of the rate of sickness benefit will be:—

$$\frac{20 \times 28}{(26 - 4)} = 25 \frac{5}{11} \text{ annas.}$$

The daily rate of sickness benefit payable in the ²⁴[benefit period] will then be 12 ⁸/₁₁ annas, rounded to the next higher anna, namely, 13 annas.

3. Disablement and dependants' benefit shall be an amount equivalent to one-half of the sum of the assumed average daily wages for each of the weeks for which contributions were paid in respect of the employee during the period of fifty-two weeks immediately preceding the week in which the employment injury occurs, divided by the number of weeks for which contributions were so paid;

²⁵[Provided that where no contribution was paid in respect of the employee during the aforesaid period of fifty-two weeks the disablement and dependants' benefit shall be an amount equivalent to one fifty-second part of the monthly wages calculated in accordance with section 5 of the Workmen's Compensation Act, 1923 (VIII of 1923), and provided further that] where the amount of the benefit so calculated includes a fraction of an anna, it shall be rounded to the next higher anna. The calculation indicated above is illustrated by the following examples:—

Example 1.—If the assumed average daily wages of an employee were 14 annas a day for 20 weeks, Rs. 1-4-0 a day for 20 weeks and Rs. 1-12-0 a day for 12 weeks, the average of the assumed daily wages for the purpose of disablement and dependants' benefit will be:—

$$\frac{20 \times 14 + 20 \times 20 + 12 \times 28}{52} = 19 \frac{28}{52} \text{ annas.}$$

The disablement or dependants' benefit will then be 9 ¹⁴/₁₃ annas, rounded to the next higher anna, namely, 10 annas a day.

Example 2.—If the employee worked only for 34 weeks in the period of 52 weeks preceding the week in which the employment injury occurs and his assumed average daily wages were 14 annas a day for 20 weeks

²⁴Subs. for "benefit year" by Act 53 of 1951.

²⁵Subs. for "provided that" by Act 53 of 1951.

and Rs. 1-4-0 for 14 weeks, the average of the assumed daily wages for the purpose of disablement and dependants' benefit will be:—

$$\frac{20 \times 14 + 14 \times 20}{34} = 16 \frac{16}{34} \text{ annas.}$$

The disablement or dependants' benefit will be $8 \frac{1}{2}$ annas, rounded to the next higher anna, namely, 9 annas a day.

The disablement or dependants' benefits calculated as aforesaid shall be called the full rate.

4. The disablement or dependants' benefit shall be payable to a person suffering from disablement as a result of an employment injury sustained as an employee in a factory or establishment to which this Act applies, or if he dies as a result of such injury, to his dependants, as follows:—

(i) to the insured person—

(a) for temporary disablement, during the period of such disablement at the full rate;

(b) for permanent partial disablement, at a percentage of the full rate, as provided in section 4 of the Workmen's Compensation Act, 1923 (VIII of 1923), for life;

(c) for permanent total disablement, at the full rate for life;

(d) in cases of disablement not covered by clauses (a), (b) and (c) above, as may be provided in the regulations.

(ii) in the case of the death of the person, to his widow and children as follows:—

(a) to the widow during life or until remarriage an amount equivalent to three-fifths of the full rate and, if there are two or more widows, the amount payable to the widow as aforesaid shall be divided equally between the widows;

(b) to each legitimate or adopted son, an amount equivalent to two-fifths of the full rate until he attains fifteen years of age;

(c) to each legitimate unmarried daughter, an amount equivalent to two-fifths of the full rate until she attains fifteen years of age or until marriage, whichever is earlier:

Provided, that the Corporation may continue such benefit to any legitimate or adopted son or any legitimate unmarried daughter until he or she attains the age of eighteen years if such son or daughter continues education to the satisfaction of the Corporation:

Provided further that if the total of the dependant's benefits distributed among the widow or widows and "[legitimate children or adopted son] of the deceased person as aforesaid" [exceeds at any time the full rate], the share of each of the dependants shall be proportionately "[altered]", so that the total amount payable to them does not exceed the amount of disablement benefit at the full rate.

*Subs. for "legitimate children" by Act 53 of 1951.

*Subs. for "exceeds the full rate" by *ibid.*

*Subs. for "reduced" by *ibid.*

5. In case the deceased person does not leave a widow or legitimate child, dependants' benefit at such rates as may be determined by the '[Employees' Insurance Court having jurisdiction] shall be payable as follows:—

- (a) to a parent or grand parent, for life;
- (b) to any other male dependant, until he attains fifteen years of age;
- (c) to any other female dependant, until she attains fifteen years of age or until marriage, whichever is earlier, or if widowed until she attains fifteen years of age.

EMPLOYEES' STATE INSURANCE SCHEME¹

PART I.

THE SCHEME IN BRIEF.

1. *Need for the Scheme.*—The probability of interruption of incomes due to sickness, disablement, maternity, old-age, unemployment etc., stares those who depend on regular incomes in the face. Industrial workers every where have been particularly exposed to these risks. Till a satisfactory provision is made to meet these contingencies, workers suffer from a fear of economic insecurity, and when any of these contingencies takes place to any serious extent, they and their families have to face serious hardship and sometimes are reduced to starvation level. Resort to debt on prohibitive rates of interest under such circumstances is not uncommon. Experience has proved that the risk of this economic insecurity cannot be adequately met on individual or family basis. In most of the economically advanced countries, provision for these risks has been made on a collective basis through, what are called, Social Insurance Schemes. Unlike the ordinary commercial insurance schemes where insurance is optional and the entire cost of insurance is met by the beneficiary, under a social insurance scheme coverage is made compulsory for specified groups of people by a national law and the cost is usually met on a tripartite basis, i.e. by employees, employers and the State. In some countries such schemes have been in operation for a long time.

¹Subs. for "Commissioner appointed under the Workmen's Compensation Act, 1923" by *ibid.*

²Issued by the Regional Director, Employees' State Insurance Corporation, Kanpur.

India has made a beginning in adopting this well-tried pattern of making collective provision for common risks by enacting the Employees' State Insurance Act, 1948 which secured the assent of the Governor General on the 19th April, 1948.

2. *The object of the Scheme.*—The object of the Employees' State Insurance Scheme is to provide for certain benefits to employees in case of sickness, maternity and employment injury.

3. *The Scope of the Scheme.*—The Employees' State Insurance Act, 1948, applies in the first instance to all factories, other than seasonal factories, using power and employing twenty or more persons, and covers all employees who are directly or indirectly employed on any work of the factory whether in manual or non-manual capacity, on a remuneration not exceeding Rs. 400/- p.m. It is significant that this Act covers even clerical workers, who have usually been excluded from the benefits of labour laws in India.

4. *Benefits provided under the Scheme.*—The Scheme provides for the following benefits:—

- (a) medical treatment for and attendance on insured persons;
- (b) periodical payments to an insured person in case of his sickness;
- (c) periodical payments in case of confinement to an insured woman;
- (d) periodical payments to an insured person suffering from disablement as a result of employment injury sustained as an employee under the Act; and
- (e) periodical payments to such dependants of an insured person who dies as a result of employment injury sustained as an employee under the Act, as are entitled to compensation;

These benefits have been explained in Part II.

5. *Funds of the Scheme.*—The funds for the Scheme will be derived from contributions payable by the employers and the employees under the Act and from the grants to be made by the Union and the State Govts.

6. *Contributions from employers and employees: (Normal Phase—When the Scheme is in operation all over India).*—The Act provides for the payment of certain contributions to the Corporation in respect of each employee covered under the Scheme. The contribution payable in respect of an employee comprises of contribution payable by the employer called "employer's contribution" and contribution payable by the employee called "employee's contribution".

7. The rates of contributions depend on the average daily wages of an employee. The employees have been divided into 8 wages-groups and the contributions per week are payable at the rates specified below.

Group of employees.	Contribution (recoverable from employees)	Employer's contribution			Contribution (employee's & employer's contribution)		
	1	2			3		
		Rs.	As.	P.	Rs.	As.	P.
1. Employees whose average daily wages are below Rs. 1/-	Nil	0	7	0	0	7	0
2. Employees whose average daily wages are Rs. 1/- and above but below Rs. 1/8/-	0 2 0	0	7	0	0	9	0
3. Employees whose average daily wages are Rs. 1/8/- and above but below Rs. 2/-	0 4 0	0	8	0	0	12	0
4. Employees whose average daily wages are Rs. 2/- and above but below Rs. 3/-	0 6 0	0	12	0	1	2	0
5. Employees whose average daily wages are Rs. 3/- and above but below Rs. 4/-	0 8 0	1	0	0	1	8	0
6. Employees whose average daily wages are Rs. 4/- and above but below Rs. 6/-	0 11 0	1	6	0	2	1	0
7. Employees whose average daily wages are Rs. 6/- and above but below Rs. 8/-	0 15 0	1	14	0	2	13	0
8. Employees whose average daily wages are Rs. 8/- and above.	1 4 0	2	8	0	3	12	0

8. *Grants from the Union and the State Governments.*—Besides the contributions from the employees and the employers the Central Government shall make a grant to the Corporation of a sum equivalent to $\frac{1}{3}$ rd of the administrative expenses of the Corporation during the first five years and the State Governments will contribute about $\frac{1}{3}$ rd of the cost of medical care.

9. *Administration of the Scheme.*—The Scheme is being administered by the Employees' State Insurance Corporation which has been established by the Central Government under the Act. The Corporation consists of 31 members including 5 representatives each of employers and employees. Under the general superintendence and control of the Corporation a Standing Committee consisting of 13 members including 2 representatives each of employers and employees has been constituted to act as an executive body for the administration

of the Scheme. A Medical Benefit Council consisting of 21 members including 3 representatives each of employers and employees has been set up to advise the Corporation on medical questions. The Corporation may also set up Regional Boards, Local Committees and Regional Medical Benefit Councils in suitable areas. The employers of the area will be represented on such boards, committees and councils also.

10. The Corporation will have a three-tier administrative set up for administering the Scheme all over India. There would be Local Offices in important industrial towns or in different labour areas of big industrial cities. These Local Offices will receive claims, scrutinize the title of an insured person to benefit and make payment. The Local Offices will be grouped into regions for which there will be Regional Offices. These Regional Offices will exercise direct control and supervision over Local Offices and above all there will be a Head Office for over-all supervision and control and for issuing instructions on matters of general policy.

11. The State Governments will arrange to provide "Medical Benefit" to employees in consultation with the Corporation and according to the standards agreed to between the State Governments and the Corporation.

PART II.

BENEFITS EXPLAINED.

12. *Medical Benefit*.—Medical benefit may be given in the form of out-patient treatment and attendance in a hospital, dispensary, clinic or any other institution or by visit at the home of the insured person in treatment as in-patient in a hospital or other institution. Arrangements for the provision of medical benefit under the Act will be made by the State Governments and the standard of such benefits to be made available to insured person will be decided by an agreement between the Corporation and the State Governments. It is, however, intended to provide a much higher standard of medical care to employees covered under the Act than what is ordinarily available to a citizen. Every effort will be made to provide all necessary treatment to insured persons. Necessary drugs and medicines will be supplied free of cost. While as an in-patient in a hospital an insured person will not only be given free treatment but will also be maintained free of any charge. When a person is unable to visit a dispensary, he could call for the doctor at his own place. The Medical Officers under the Scheme will not only provide treatment in case of illness but will also advise and help insured persons in general matters of health and in preventing disease and sickness.

13. A person shall be entitled to claim medical benefit during any week for which contributions are payable in respect of him or for which he is qualified to claim sickness benefit or maternity benefit or is in receipt of disablement benefit for temporary disablement. Though

to begin with the medical benefit will be confined to insured person only; it may be extended to the members of their families also as soon as funds permit.

14. Sickness Cash Benefit.—Contributions paid in respect of an insured person during the period of six months called a "Contribution Period" shall qualify him to draw sickness benefit during a subsequent period of six months called a "Benefit Period". To prepare contribution cards and complete records showing the rate of benefit payable to a person, a period of about three months will elapse between the end of a contribution period and the beginning of the corresponding benefit period. A person may thus not be able to claim sickness cash benefit before the expiry of about nine months from the date of his entry into insurance.

15. A person will be entitled to receive sickness cash benefit if he has paid contributions for at least $\frac{2}{3}$ ds of the number of weeks in a contribution period during which he could be expected to have been available for employment, subject to a minimum of 12 contributions. A person will not be expected to be available for employment during weeks of sickness duly certified by a medical officer or during weeks for which he was qualified to receive benefit for a temporary disablement, or was entitled to the maternity benefit, as such weeks will be treated as excuse. The rate of benefit will be roughly half of the average assumed daily wage. Since the benefit will be payable for all the 7 days in a week including Sundays or holidays, the weekly benefit will come to about $\frac{7}{12}$ ths of average assumed weekly earnings. However, in case of persons who are not in regular employment and who do not pay contributions regularly, the rate of benefit will be reduced in proportion to the number of weeks for which contributions were not paid, excluding of course the weeks of certified sickness, temporary disablement or maternity.

16. A person shall be able to draw sickness benefit for a maximum period of 56 days in any continuous period of 365 days. Sickness benefit, however, will not be payable for the first two days of sickness except in the case of a spell of sickness following at an interval of not more than 15 days the last spell of sickness for which benefit was paid.

17. Maternity Benefit.—The contributory conditions for the entitlement to maternity benefit are the same as in the case of sickness benefit excepting that one contribution should have been paid between 35 and 40 weeks before the week of confinement. An insured woman, who has paid the required number of contributions, shall be entitled to maternity benefit at the rate of 12 annas a day for a period of 12 weeks of which not more than six weeks shall precede confinement; benefit shall be payable for all days of a week. The rate of maternity benefit is not in proportion to the wages of an insured woman and it will be beneficial for woman whose wages are low. In some cases it may come to even as much as $\frac{3}{4}$ th of the normal wage.

18. Disablement Benefit.—An employment injury sustained by an employee under the Act may result either in temporary disablement or permanent disablement or death. The permanent disablement may again be either total or partial. In case of temporary disablement which means a condition which requires medical treatment and renders an employee temporarily incapable of work, disabled worker will be entitled to cash benefit of about one-half of the average assumed daily wages over a period of 52 weeks immediately preceding the week in which employment injury occurs. Such benefits are not subject to any contributory conditions and the payment of benefit will start from the first day of incapacity, and it will last as long as temporary disablement continues. If the disablement is declared as permanent disablement, the disabled person shall be entitled to a disablement benefit equal to the rate of disablement benefit for temporary disablement (called the full rate) if disablement is total. In case of partial permanent disablement the rate of benefit will be in proportion to the degree of such disability. These benefits will be payable for life unless they are reviewed. An occupational disease will be treated as an employment injury.

19. Dependants' Benefit.—If an employment injury results in the death of the insured person, dependants' benefit shall be payable to the dependants of such an insured person as follows:—

(a) to the widow during the life or until re-marriage an amount equivalent to $\frac{2}{3}$ ths of the full rate and if there are two or more widows the amount payable to the widow shall be divided equally between the widows;

(b) to each legitimate or adopted son an amount equivalent to $\frac{2}{3}$ ths of full rate until he attains 15 years of age;

(c) to each legitimate unmarried daughter an amount equivalent to $\frac{2}{3}$ ths of the full rate until she attains 15 years of age or until marriage, whichever is earlier;

However, if the total of the dependants' benefits distributed among the widow or widows and legitimate children of the suggested person exceeds the full rate, the share of each of the dependants shall be proportionately reduced so that the total amount payable to them does not exceed the amount of disablement benefit at full rate.

If a person does not leave a widow or legitimate child dependants' benefit shall be payable to a parent or a grand parent or to other dependent children at such rates as may be decided by the Commissioner appointed under the Workmen's Compensation Act.

20. It will, thus, be observed that the benefits provided under the Employees' State Insurance Scheme in case of an employment injury are much more liberal than those which were available to factory employees under the Workmen's Compensation Act. Firstly, the scope of coverage under the Employees' State Insurance Scheme has been widened. Under the Workmen's Compensation Act only manual

workers falling within the definition of "workmen" were entitled to compensation while under the Employees' State Insurance Scheme all employees, irrespective of the fact whether they are manual, supervisory or salaried employees, will be entitled to disablement benefit excepting those whose monthly remuneration exceeds rupees 400. Under the Workmen's Compensation Act the rate of compensation for temporary disablement went on falling with an increase in monthly remuneration while under the present Scheme all employees will be drawing a benefit of about 50% of their average assumed wage. Again in case of permanent disablement the compensation was payable only in lump sums while under the Scheme benefit will be payable for life unless a change in the nature of permanent disability necessitates a review. A lump sum payment cannot provide the necessary economic security for any long period. In case of death of a worker as a result of an employment injury the Compensation to dependants was also payable in lump sum but under the Employees' State Insurance Scheme the widow will be entitled to benefit for life or till she remarries and the children will be entitled to benefit till they attain the age of 15 years, or, if receiving education to the satisfaction of the Corporation, till the age of 18 years.

PART III.

WORKING OF THE SCHEME.

21. Entry into insurance.—As soon as the scheme is brought into force in a particular area by notification in the official gazette the factory employer in that area shall fill in a declaration form in respect of each of his employees insurable under the Act. In case of factories which fall within the purview of the Act, or in case of an employee taken in an insurable employment, after the introduction of the Act, such declaration forms shall be filled in immediately when such a factory comes under the purview of the Act, or such an employee takes his insurable employment. The Corporation shall arrange to supply declaration forms and other necessary literature regarding registration of employees under the Act before the Act is brought into force in a particular area. The declaration forms will contain particulars regarding the name, age, sex, father's name, occupation, local residential address, permanent home address, etc. of an employee. Every employee will be required to furnish all these particulars to the clerk of the employer who fills up the declaration form, and to put his signatures or his thumb impression on the declaration form in token of the correctness of the particulars furnished by him. Employees will also be given an opportunity to indicate their preference for the dispensary and the Local Office to which they wish to be attached.

The employer will send the completed declaration forms to the Regional Office. On receipt of the declaration forms the Regional Office will allot an insurance number to each employee in respect of whom a declaration form is received. Besides other documents

required for use at the Regional and Local offices the Regional Office will prepare an Identity Card for each employee and send such card to his employer who will hand it over to the employee concerned. The Identity Card will show *inter alia* the Insurance Number of the employee, and the local office and the dispensary to which the employee is attached. It is also proposed to arrange for photographing every employee and to put his photograph on the Identity Card to ensure proper identification.

22. Payment of Contributions. (In the Normal Phase when the Scheme is in operation all over India).—Contributions shall be paid in the first instance by the employer. Contributions will ordinarily be paid by contribution stamps specially designed for the purpose. Employers may, however, be permitted to pay contributions in cash on certain conditions. An employer is permitted to deduct the share of the contribution payable by an employee from his wages for the period for which contribution is paid. The rates of contributions payable under the Scheme have been indicated in the table under para 7 above.

23. At the time of filling in the declaration forms the employer's clerks will prepare a contribution card in respect of each employee. This contribution card is intended for affixing contribution stamps or indicating in writing the amount of contribution due and paid in respect of the employee for a particular week. If an employee wants to make sure that contributions are being paid in respect of him regularly he can inspect his card once a month. Contribution Cards will remain with employers for whole of the contribution period to which they relate. They should be sent to Regional Office within 15 days of the termination of such contribution period. A contribution card can be requisitioned from an employer by the Regional Office at any time.

MAKING A CLAIM FOR BENEFIT.

24. Medical benefit.—An employee shall be entitled to claim medical benefit as soon as he takes up an insurable employment. His identity card will bear the name of the dispensary to which he is attached for purposes of obtaining medical benefit. For obtaining medical benefit an employee shall present himself at the appropriate dispensary with his identity card. After his title to benefit and his identity have been checked he will be attended to by the Insurance Medical Officer for providing such treatment as may be considered necessary. In case where an employee is unable to attend at a dispensary he can call for the medical officer at his residence. If the condition of an employee requires in-patient treatment in a hospital, the medical officer will arrange for his admission to a hospital where medical care is provided under the Employees' State Insurance Scheme and where a bed is available for him. Arrangements for specialist's care will also be made if the medical officer attending on the insured person considers it necessary. Adequate pre-natal and post natal medical care will also be provided for insured women when necessary.

25. Sickness Benefit.—Where an employee has fulfilled the contributory conditions, sickness benefit shall be payable to him only for such sickness as is certified by his medical officer and which necessitates abstention from work. When an employee attends to the dispensary for treatment he should ask for a certificate from his medical officer. His sickness for purposes of payment of cash benefit will be treated to have commenced from the date on which he obtains the first certificate in respect of such sickness. If the sickness continues for more than seven days he should obtain medical certificates at an interval of every seven days. The form of claim for sickness benefit is printed on the back of the medical certificate. The employee should fill in this form. If he wants immediate payment of benefit, he should hand over the medical certificate together with the claim form duly filled in at the local office to which he is attached, and obtain payment at the counter. Otherwise he can send the form by post in which case he will receive payment by Money Order. If an employee cannot fill in the claim form himself the Local Office staff will help him to do so. Even if an employee is not entitled to claim cash benefit it will be in his interest to obtain a medical certificate for all sickness which necessitates his abstention from work and to send such certificate to the Local Office for record. The periods of sickness covered by such certificates will count for excusal from payment of contributions in respect of an employee.

26. Maternity Benefit.—In claiming maternity benefit insured woman should obtain certificates of pregnancy, of expected date of confinement and of actual confinement and send them to the Local Office to which she is attached. Payment of maternity benefit will commence after the submission of the certificate of expected confinement provided the date of such submission does not precede the expected date of confinement by more than six weeks. Payment shall continue till the expiry of 12 weeks.

27. Disablement benefit.—As soon as an employee suffers an injury during the course of his employment he will give notice of such injury to his employer. Such notice could, however, be given by any of his friends or relations also. The employer will record the notice on an Accident Book to be maintained by him, and send a report of the accident to the nearest Local Office and the nearest Dispensary. The injured employee should obtain a medical certificate from the Medical Insurance Officer who attends him for treatment. Medical certificates in case of employment injury will be obtained at the same interval as applies in the case of medical certificates for sickness benefit. They will be submitted to the Local Office after filling in the claim forms on their back. As, for determining the claim for disablement benefit certain inquiries and investigation will be necessary, it will take some time before the claim can be finally accepted. Till such time the employee may be paid at the sickness rate, provided the disablement necessitates abstention from work and provided the person is entitled to sickness

benefit. If after making necessary inquiries the disablement is treated as a temporary disablement, the injured person will draw benefit at the full rate of disablement benefit so long as he remains temporarily disabled. At any time when it is considered that the injury has resulted in disablement of a permanent nature the injured person either on his own request or at the advice of the Insurance Medical Officer or at the initiative of the Corporation will be referred to a medical board for determining as to whether the disablement can be declared as a permanent disablement and if so the degree of such disablement. Benefit for permanent disablement will be payable from the date from which the disablement is treated as permanent. Disablement benefit will be subject to a review at any time on an application by the person receiving the benefit or by the insurance officer of the Corporation.

28. Dependants' Benefit.—For claiming dependants' benefit the dependants of a deceased insured person should obtain a certificate of death from the Insurance Medical Officer who was attending the deceased person for treatment. The dependants of deceased insured person should submit to the appropriate Local Office their claim for dependants' benefit either jointly or severally on the appropriate form together with the death certificate obtained from the Medical Insurance Officer. Dependants will also be required to submit a proof of title to dependants' benefit and proof of age.

29. Payment of benefits.—Payment of any of the above mentioned benefits will either be obtained at the Local Office to which the person concerned is attached or by Money Order, as the person concerned may desire.

PART IV.

SOME FACTS ABOUT THE SCHEME.

30. When the Scheme is in operation in all States of India the number of factories to be covered under the Act is expected to come to about nine thousand employing about 25 lakhs employees of whom about 2½ lakhs will be women. In order to administer the scheme throughout the country, the country is proposed to be divided into a number of regions. There will be about 200 local offices which will deal directly with the insured persons in connection with entertaining claims and paying benefits. The total income from contributions is estimated at about eleven crores. The Corporation is likely to handle about 25 lakhs of claims for sickness benefit, 5 lakhs of claims for disablement benefit and about 55 thousand claims for maternity benefit per annum. Contribution cards will be handled twice for each insured person every year. Contribution cards and benefit records will also have to be entered twice for every insured person every year. The number of medical certificates issued at dispensaries and submitted to Local Offices is likely to come to about one crore.

31. The few facts about the scheme mentioned above make it clear

that the timely and proper handling of the work into the scheme will need a well-planned administrative machinery at every level. The administration of the Scheme all over India will require the services of a large number of well qualified and trained persons. Since it is the first scheme of its kind that is being introduced in India experienced hands in this type of work are not readily available. It has, therefore, been decided after mature consideration that the Scheme should be implemented all over India in stages. In the first stage only Delhi and Kanpur are being covered. A definite programme of extension of the Scheme to other areas* of the country has been prepared and it is hoped that the Scheme will be in operation in all industrial areas of the country within next two years. So far as Kanpur and Delhi are concerned the Scheme is proposed to be implemented from early '52.

THE EMPLOYEES' STATE INSURANCE (CENTRAL) RULES, 1950.¹

RULES.

CHAPTER I.

1. *Short title and extent.*—(1) The Rules may be called The Employees' State Insurance (Central) Rules, 1950.

[(2) They extend to the whole of India except the State of Jammu and Kashmir.]

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context,—

(1) 'the Act' means the Employees' State Insurance Act, 1948 (Act XXXIV of 1948);

(2) 'Chairman' means the Chairman of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be;

(3) 'Form' means a form appended to these Rules;

(4) the 'Fund' means the Employees' State Insurance Fund;

(5) 'Government Securities' means Government Securities as defined in the Indian Securities Act, 1920;

(6) 'immovable property' includes land, benefits to arise out of land, things attached to the earth, or permanently fastened to anything attached to the earth;

(7) 'movable property' means property of every description except immovable property;

(8) 'State Medical Commissioner' means a duly registered medical practitioner including a medical officer in the service of a State Government appointed as such by the Corporation:

*For the different areas of the country in which the provisions of the Employees' State Insurance Act, 1948 have since been brought into force, see foot-note 4 at p. 281, *supra*.

¹See Notification No. S. R. O. 212, dated 22nd June, 1950.

²Subs. for former sub-rule (2) by Notification No. S. R. O. 891, d/- 12-5-52, pub. in Gazette of India, d/- 17-5-52, pt. II—Sec. 3, p. 814.

(9) 'year' shall mean the financial year, that is to say, the period beginning from the first of April and ending with the thirty-first of March of the year following.

2A. Election of members of Parliament to the Corporation.—Each House of Parliament shall elect, in such manner as the Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may direct, a person from among its Members to be a Member of the Corporation.]

3. Election of members to the Standing Committee.—(1) The Chairman of the meeting shall, at a meeting of the Corporation at which it is proposed to elect members of the Standing Committee under clause (c) of section 8, invite members to propose names from among members of the Corporation belonging to the group from which election is to be made. The names proposed shall be duly seconded by another member of the Corporation.

(2) If the number proposed from any group for election does not exceed the number of vacancies to be filled from that group, the persons whose names have been so proposed shall be declared elected to the Standing Committee.

(3) If the number proposed for election from a group exceeds the number of vacancies to be filled therefrom, each member of the Corporation present at the meeting shall be given a ballot paper containing the names of all the candidates proposed and he shall be required to vote thereon for as many candidates from the group as there are vacancies to be filled up. Not more than one vote shall be given in favour of any one candidate. If any member votes for more candidates than there are vacancies in the group or gives more than one vote in favour of any one candidate, all his votes shall be deemed to be invalid.

(4) The persons getting the highest number of votes shall be declared by the Chairman, at the meeting or as soon thereafter as possible, as duly elected to the Standing Committee:

Provided that where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared to be elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Chairman and in such manner as he may determine.

(5) If any question shall arise as to the validity of any election it shall be referred to the Central Government whose decision in the matter shall be final.

4. Restoration to membership.—(1) A member of the Corporation, the Standing Committee or the Medical Benefit Council, who ceases to be a member by virtue of section 12, shall be informed of such cessation by a letter sent to him by registered post. The letter shall

¹Inserted by Notification No. S. R. O. 103, d/- 31-12-52, pub. in Gazette of India, d/- 10-1-53, Pt II—Sec. 3, pp. 46-47.

also indicate that if he desires restoration to membership, he may apply therefor within thirty days from the receipt of the letter.

(2) The application under sub-rule (1) shall indicate the reasons which prevented him from attending three consecutive meetings and shall be addressed to the Chairman concerned.

(3) The application shall be placed before the next meeting of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, and if a majority of the members present at such meeting are satisfied that the reasons for failure to attend three consecutive meetings are adequate, he shall be restored to membership immediately after a resolution to that effect is adopted.

(4) The benefit of restoration to membership as provided for in this rule shall be allowed to a member only once during any one term as a member.

CHAPTER II.

5. *Fees and allowances of members.*—(1) A non-official member of the Corporation, the Standing Committee or the Medical Benefit Council as the case may be, residing at the place where a meeting is held shall be allowed the actual expenditure incurred on conveyance subject to a maximum of ten rupees for each day on which he attends one or more meetings.

(2) A non-official member not resident at the place where a meeting is held, shall be allowed travelling and daily allowances in respect of the meetings which he attends at the following rates, namely:—

(i) The travelling allowance shall be—

(a) in respect of journeys by air, the actual fare paid and one quarter of the standard air fare for the journey;

(b) in respect of journey by rail, one and a half times the class one railway fare if the journey is performed in that class on payment of full fare, and in other cases the actual railway fare, if any, paid and one half of the class one railway fare, from and to the usual place of business or from and to the place from or to which the journey is actually performed by the member, whichever is less; and

(c) in respect of journeys by road performed otherwise than by a means of locomotion provided at the expense of Government or the Corporation, at the rate of mileage allowance admissible to officers of the first grade in the service of the Central Government. When the journey is performed by road between places connected by railway, mileage will be limited to what would have been admissible had the member travelled by rail in the ordinary way.

(ii) The daily allowance shall be at the maximum rate admissible to the officers of the first grade in the service of the Central Government and shall be payable in respect of each day on which the member attends one or more meetings:

Provided that the daily allowance shall also be admissible at the full rate for the day immediately preceding the date of commencement

of a meeting if the member arrives at the place of the meeting before the afternoon of such preceding day, and also for the day immediately following the last day of the meeting if the member leaves the place of the meeting after the forenoon of such following day.

Notes.—(1) Travelling or daily allowance shall be allowed if member certifies that he has not drawn any travelling or daily allowance from any other source in respect of the journey and half for which the claim is made.

(2) The daily and travelling allowance shall also be payable in respect of the meetings of any sub-committee set up by the Corporation, the Standing Committee or the Medical Benefit Council.

6. Minimum number of meetings.—(1) The Corporation shall meet at least twice each year.

(2) The Standing Committee and the Medical Benefit Council shall meet at least four times each year.

(3) The Chairman may, whenever he thinks fit, and shall, within fifteen days of the receipt of a requisition in writing from not less than one half of the members of the body concerned, call a meeting thereof.

(4) Any requisition made under this rule shall specify the object of the meeting proposed to be called.

7. Roll of Members.—(1) The Corporation shall maintain a Roll of Members separately for the Corporation, the Standing Committee and the Medical Benefit Council. The name and the address of each member shall be stated therein.

(2) If a member changes his address, he shall notify such change to the Corporation for the correction of his address in the Roll.

8. Notice of meeting and list of business.—(1) The Chairman shall decide the date, time and place of every meeting. A notice of not less than twenty-one days from the date of issue shall ordinarily be given to every member, of each meeting of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be. Such notice may be sent to every member by post or in any other suitable manner. A list of business proposed to be transacted shall, after approval by the Chairman, be posted along with the notice. Brief notes on each item of the agenda shall be sent along with the agenda or as soon as thereafter as possible. If it is necessary to convene an emergency meeting, a reasonable notice thereof shall be given to every member.

(2) No business other than that for which a meeting is convened shall be considered at that meeting, except with the permission of the Chairman of the meeting.

9. Chairman of the meeting.—The Chairman, or in his absence the Vice-Chairman, if any, of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, shall preside at the meetings. In the event of the absence of both the Chairman and the Vice-Chairman, if any, the members present may elect one from amongst themselves to preside.

10. Quorum.—No business shall be transacted at any meeting unless a quorum of eleven members in the case of the Corporation, five members in the case of the Standing Committee and seven members in the case of the Medical Benefit Council, is present:

Provided that if at any meeting there is not a sufficient number of members present to form a quorum, the Chairman of the meeting may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending.

11. Disposal of business.—Any business which requires consideration by the Corporation, the Standing Committee or the Medical Benefit Council shall be considered at a meeting thereof:

Provided that the Chairman may, if he thinks fit, direct that the necessary papers may be referred for opinion to all members:

Provided further that the decision on any question which is so referred shall be acted upon if supported by not less than a two-thirds majority of the members of the body concerned. In other cases or where the Chairman so decides, the question shall be considered at a duly convened meeting.

12. Proceedings of the meetings.—(1) The proceedings of each meeting, showing *inter alia* the names of the members present thereat, shall be forwarded to each member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, and to the Central Government as soon after the meeting as possible and in any case not later than four weeks after the meeting.

(2) The minutes of each meeting shall be confirmed with such modifications as may be considered necessary at the next meeting.

13. Minutes-Books.—(1) The minutes of a meeting of the Corporation, the Standing Committee and the Medical Benefit Council shall be kept in separate books (hereinafter referred to as minutes-books) and shall be signed by the Chairman of the meeting at which the proceedings are confirmed.

(2) A copy of the minutes-books so confirmed shall be forwarded to the Central Government within fifteen days from the date of such confirmation.

(3) The minutes-books shall be kept open at the principal office of the Corporation during office hours on working days for inspection free of charge by any member of the Corporation.

(4) The minutes-books of the Medical Benefit Council shall be kept open at the principal office of the Corporation during office hours on working days for inspection free of charge by any member of the Medical Benefit Council.

14. Powers and duties of the Medical Benefit Council.—The powers and duties of the Medical Benefit Council shall be—

(1) to advise the Corporation in regard to the constitution, setting up duties and powers of the Regional and Local Medical Benefit Councils;

(2) to make recommendations to the Corporation in regard to—

(i) the scale and nature of medical benefit provided at hospitals, dispensaries, clinics, and other institutions and the nature and the extent of the medicines, staff and equipment which shall be maintained at such institutions and the extent to which these fall short of the desired standard;

(ii) the medical formulary for use in connection with the medical benefit provided under the Act;

(iii) medical certification, including the procedure and the forms for such certification, statistical returns, registers and other medical records;

(iv) measures undertaken for the improvement of the health and welfare of insured persons, and the rehabilitation and re-employment of insured persons disabled or injured;

(3) to advise the Corporation on any matter relating to the professional conduct of any medical practitioner employed for the purposes of providing medical benefit under the Act.

CHAPTER III.

15. Salaries, allowances and conditions of service of the Principal Officers.—(1) The Principal Officers shall receive such salaries as may be determined by the Central Government.

(2) The Principal Officers shall receive dearness allowance, compensatory (city allowance), house rent and other allowances at such rates and such medical benefits as may be sanctioned for the officers of the Central Government on similar salaries in the localities where they are stationed.

(3) The Principal Officers shall be entitled to leave and leave salary under the model leave terms which may, from time to time, be made applicable to the Central Government servants on contract on similar salaries.

(4) The Principal Officers shall be entitled to travelling allowance for journeys performed in the service of the Corporation on the scale provided for in the rules supplementary to the Fundamental Rules applicable to the class of officers to which the Central Government may declare them to correspond in status.

(5) The Principal Officers shall be entitled to the benefit of the Employees' State Insurance Corporation Provident Fund established under rule 47.

(6) Notwithstanding anything contained in sub-rules (1) to (5), the pay, allowances and other conditions of service of a Principal Officer, if he is a person already in the service of the Government, shall be such as may be determined by the Central Government in each individual case.

16. Powers and duties of the Director General.—(1) The powers and duties of the Director General shall be—

- (i) to act as the Chief Executive Officer of the Corporation;
- (ii) to co-ordinate, supervise and control the work of the other Principal officers;
- (iii) to convene, under the orders of the Chairman, meetings of the Corporation, the Standing Committee and the Medical Benefit Council in accordance with the Act and the Rules and to implement the decisions reached at the meetings;
- (iv) to enter into contracts on behalf of the Corporation in accordance with the Act or the Rules or Regulations made thereunder, or the general or special instructions of the Corporation or the Standing Committee;
- (v) to furnish all returns and documents required by the Act or the Rules to the Central Government and to correspond with the Central Government and the State Governments upon all matters concerning the Corporation; and
- (vi) to undertake such other duties and to exercise such other powers as may from time to time be entrusted or delegated to him.

(2) The Director General may, with the approval of the Standing Committee, by general or special order, delegate any of his powers or duties under the Rules or the Regulations or under any resolution of the Corporation or the Standing Committee, as the case may be, to any person subordinate to him. The exercise or discharge of any of the powers or duties so delegated shall be subject to such restrictions, limitations and conditions, if any, as the Director General may, with the approval of the Standing Committee impose.

17. Powers and duties of the Insurance Commissioner.—The powers and duties of the Insurance Commissioner shall subject to the control of the Director General be—

- (i) to arrange, subject to the control of the Director General, for the establishment of Insurance and Regional offices for the administration of the Act;
- (ii) to arrange for inspection of subordinate offices;
- (iii) to investigate all complaints referred to by the Regional Boards and the Local Committees; and
- (iv) to undertake such other duties and to exercise such other powers as may, from time to time, be entrusted or delegated to him.

18. Powers and duties of the Medical Commissioner.—(1) The powers and duties of the Medical Commissioner shall subject to the control of the Director General be—

- (i) to supervise, direct and co-ordinate the working of the medical organization of the Corporation;
- (ii) to advise on the lay-out, planning and construction of hospitals and dispensaries and in regard to sickness recording;

(iii) to examine the records of sickness and accident and to suggest measures for improving health conditions in areas where the Act is in force;

(iv) to conduct such medical research as may be authorized by the Corporation on the advice of the Medical Benefit Council;

(v) to arrange for the inspection of hospitals, dispensaries, clinics and other institutions where medical benefit under the Act is provided by the State Governments, the Corporation or the employers;

(vi) to advise regarding the adequacy of medical treatment provided by the factories or establishments applying for exemption;

(vii) to investigate complaints made by insured persons with regard to medical benefit;

(viii) to devise forms and registers for keeping the records of insured persons by institutions where medical benefit under the Act is provided; and

(ix) to undertake such other duties and exercise such other powers as may, from time to time, be entrusted or delegated to him.

(2) The duties and powers of the Medical Commissioner may be delegated to the State Medical Commissioner with the approval of the Director General subject to such general or special directions as may be issued from time to time by the Medical Commissioner with the approval of the Director General.

19. Powers and duties of the Chief Accounts Officer.—The powers and duties of the Chief Accounts Officer shall subject to the control of the Director General be—

(i) to maintain the accounts of the Corporation and to arrange for the compilation of accounts by the collection of returns from the Centres and Regions;

(ii) to prepare the budget of the Corporation;

(iii) to arrange for internal audit of the accounts of the Centres and Regions and of the receipts and payments thereof;

(iv) to make recommendations for the investment of the funds of the Corporation; and

(v) to undertake such other duties and to exercise such other powers as may, from time to time, be entrusted or delegated to him.

20. Powers and duties of the Actuary.—The powers and duties of the Actuary shall subject to the control of the Director General be—

(i) to collect, compile and analyse statistics relating to the working of the Corporation;

(ii) to advise the Director General on all actuarial and statistical problems relating to the working of the Corporation;

(iii) to detect and prevent excessive claims; and

(iv) to undertake such other duties and exercise such other powers as may, from time to time, be entrusted or delegated to him.

CHAPTER IV.

21. Bank or banks for depositing the Fund.—(1) All moneys accruing or payable to the Fund shall be received by such officers of

the Corporation as may be authorized by it in this behalf. The amount so received shall as soon as practicable be acknowledged by a receipt in Form I and deposited in the Reserve or the Imperial Bank of India or such scheduled bank, as may be approved for this purpose by the Central Government, to the account of the Fund:

Provided that any moneys may also be paid directly to the account of the Fund in any such bank.

(2) The receipt book in Form I shall be numbered serially by machine and the unused forms shall be kept in the custody of the Chief Accounts Officer or such other officer of the Corporation as may be authorized by the Corporation in this behalf.

22. Procedure for crediting moneys to the Banks.—(1) All moneys accruing or payable to the Corporation shall be credited to the approved bank and not utilized directly for any purpose.

(2) The bank or banks shall be required at the end of every calendar month to furnish to the Corporation or such officer as may be authorized by it in this behalf, a statement of the amounts deposited in and withdrawn from the Fund during the month. These statements shall be examined by the Director General before the expiry of a period of two months following the period to which the statements relate.

23. Purpose and manner of payment out of the Fund.—(1) The accounts of the Fund shall be operated on by such officers as may be authorized by the Standing Committee with the approval of the Corporation.

(2) No payment shall be made by the bank or banks out of the Fund except on a cheque signed by such officers as may be authorized under sub-rule (1).

(3) Any payment in excess of one hundred rupees shall be made by means of a cheque signed as aforesaid and not in any other way unless specifically authorized by the Standing Committee:

Provided that payment of salaries to the employees of the Corporation drawing a basic salary not exceeding rupees two hundred and fifty a month may be made in cash.

(4) No payment shall be made out of the Fund unless the expenditure is covered by a current budget grant:

Provided that in the absence of a current budget grant, the Corporation may authorize payments either generally or for any particular case:

Provided further that the payment of benefits to insured persons under the provisions of the Act and of the pay and allowances of duly sanctioned posts shall not be withheld for want of a sanctioned budget grant.

24. Circumstances in which cheques may be drawn.—Before any person authorized under rule 23 signs a cheque, he shall satisfy himself that the sum for which the cheque is drawn is—

(i) required for a purpose or work specifically sanctioned by the proper authority and covered by a current budget grant; and

(ii) required for any payment referred to and specified under section 28:

Provided that in the absence of a current budget grant, the Corporation may authorize payments either generally or for any particular case:

Provided further that the payment of benefits to insured persons under the provisions of the Act and of the pay and allowances of duly sanctioned posts shall not be withheld for want of a sanctioned budget grant.

25. Acquisition of property.—Subject to the provisions of rule 29 and such conditions as may, from time to time, be laid down by the Corporation, the Director General may, for the purposes of this Act, acquire on behalf of the Corporation movable or immovable property:

Provided that sanction of the Standing Committee shall be required for the exchange of any immovable property, for the taking of any property on lease for a term exceeding twelve months, or for the acceptance of any gift or bequest of property burdened by an obligation.

Note.—The sanction of the Standing Committee may be given either generally or for any class of cases or specially for any particular case.

26. Disposal of property.—Subject to the provisions of rule 29 and such conditions as may be laid down by the Corporation from time to time, the Director General may—

(i) dispose of by sale or exchange, any movable property belonging to the Corporation, the value of which does not exceed ten thousand rupees in each case, or grant for any term not exceeding twelve months a lease of any immovable property belonging to the Corporation;

(ii) with the sanction of the Standing Committee, lease, sell or otherwise dispose of any movable or immovable property belonging to the Corporation.

Note.—The sanction of the Standing Committee may be given either generally or for any class of cases or specially for any particular case.

27. Investment, transfer or realization of the Fund.—(1) All moneys belonging to the Fund which are not immediately required for expenses properly defrayable under the Act, may, subject to the approval of the Standing Committee, be invested by the Director General—

(i) in Government securities including Treasury Deposit receipts; or

(ii) in securities mentioned or referred to in clauses (a) to (d) of section 20 of the Indian Trusts Act, 1882 (II of 1882); or

(iii) as fixed deposit in the Reserve or the Imperial Bank of India.

(2) Moneys belonging to the Fund shall not be invested in any other manner except with the prior approval of the Central Government.

(3) Any investment made under this rule may, subject to the provisions of sub-rules (1) and (2), be varied, transposed or realized from time to time:

Provided, however, that if such variation, transposition or realization is likely to result in a loss, the prior approval of the Central Government shall be obtained.

(4) The Central Government may, at any time, direct the vacation in part or in whole, or prohibit investment, in any security or class of securities or any land or building.

(5) All dividends, interest or other sums received in respect of any investment shall, as soon as possible after receipt, be paid into or credited to the account of the Fund.

(6) The expenses of or the loss, if any, arising from any investment shall be charged to the Fund and the profit, if any, from the sale of any investment shall also accrue to the Fund.

(7) The approval under sub-rules (1) and (2) of the Standing Committee or the Central Government, as the case may be, may be given with or without any conditions either generally or in any particular case.

28. Raising and repayment of loans.—(1) (i) The Corporation may, in pursuance of a resolution passed at a meeting of the Standing Committee, and with the prior approval of the Central Government, raise loans for the purposes of the Act.

(ii) In particular and without prejudice to the generality of the foregoing power, the Corporation may raise loans—

(a) for the acquisition of land and/or the raising buildings thereon; or

(b) to repay a loan raised under this rule; or

(c) for any other purpose approved by the Central Government.

(2) All loans under this rule shall be obtained—

(i) from the Central Government on such rates of interest and such terms as to the time and method of repayment as the Central Government may specify; or

(ii) with the approval of the Central Government, from the Reserve or the Imperial Bank of India or any other scheduled bank.

Note.—The approval of the Central Government may be given, with or without any conditions, either generally or for any particular case.

(3) Where a loan is obtained from the Reserve or the Imperial Bank of India as provided in clause (ii) of sub-rule (2) the Corporation may, with the approval of the Central Government, grant mortgages of all or any of the property vested in it for securing the repayment of the sums so advanced, with interest.

(4) All payments due from the Corporation for interest on and repayment of loans shall be made in such manner and at such times as may have been agreed upon:

Provided that the Corporation may apply any sums which can be so applied, in repaying any amount due in respect of the principal of any loan although the repayment of the same may not be due.

(5) No expenditure incurred out of a loan shall be charged by the

Corporation to capital except with the previous sanction (or under the direction) of the Central Government.

(6) The Corporation shall submit to the Central Government an annual statement by the thirtieth of April each year showing the loans raised and repayments made during the preceding year.

29. Procedure for execution of contracts.—(1) The Corporation may enter into and perform all such contracts as it may consider necessary or expedient for carrying into effect the provisions of the Act.

(2) Every contract made under or for any purpose of the Act shall be made on behalf of the Corporation—

(i) by the Director General; or

(ii) subject to such conditions as it may specify, by such member or officer of the Corporation as it may authorize:

Provided that the prior sanction of the Standing Committee shall be obtained in respect of any contract involving an expenditure exceeding ten thousand rupees.

(3) Every contract entered into by any person as provided in sub-rule (2) shall be entered into in such manner and form as would bind him, if it were made on his own behalf and may in like manner and form be varied or discharged:

Provided that the common or official seal, as the case may be, of the Corporation shall be affixed to every contract for amounts exceeding one thousand rupees.

30. Seal.—(1) The common seal of the Corporation shall remain in the custody of the Director General and shall not be affixed to any instrument except in the presence of the Director General or two members of the Standing Committee, and the Director General or the said two members shall sign the contract in token of the fact that the same was sealed in his or their presence.

(2) The Corporation shall have for use at each of such other of its offices as it may specify, an official seal which shall be a facsimile of the common seal of the Corporation with the addition of the name of the office where it is to be used.

(3) The official seal shall not be affixed to any instrument except in the presence of such person or persons as the Standing Committee may authorize in this behalf and such person or persons shall sign the instrument in token of the fact that the same was sealed in his or their presence.

(4) An instrument to which an official seal is duly affixed shall bind the Corporation as if it had been sealed with the common seal of the Corporation.

CHAPTER V.

31. Preparation and submission of annual budget estimates.—(1) The Budget estimates of the Corporation for each financial year beginning on the first of April and ending on the thirty-first of March next shall be prepared by the Chief Accounts Officer in such form as the

Central Government may, from time to time, direct and shall be submitted with his recommendations by the Director General to the Standing Committee for approval at a meeting of the Standing Committee to be held before the first of October of the preceding year.

(2) A copy of the budget estimates shall be sent to each member of the Standing Committee and of the Corporation at least seven clear days before the meeting of the Standing Committee or the Corporation at which these estimates are to be considered.

(3) The Standing Committee shall consider and approve the budget estimates with such changes as it may consider necessary.

(4) The budget estimates as approved by the Standing Committee shall be placed before a meeting of the Corporation to be held before the twentieth of October of the preceding year.

(5) The budget estimates as passed by the Corporation shall be authenticated by affixing the common seal of the Corporation and shall be submitted to the Central Government under section 32, not later than the first of November next following.

(6) It shall be open to the Central Government to make such alterations in the budget estimates as may be considered necessary before according approval.

(7) The budget estimates as finally adopted by the Corporation and as approved by the Central Government shall be placed before the Parliament by the administrative Ministry concerned and published in the official Gazette as soon as possible after the Central Government budget estimates have been approved by the Parliament.

32. Supplementary estimates.—The Standing Committee may cause a supplementary estimate to be prepared and submitted to the Corporation, if in respect of any financial year further expenditure is likely to be incurred. Every such supplementary estimate shall be considered and sanctioned by the Corporation and submitted to the Central Government in the same manner as if it were an original annual estimate, not later than the Financial year to which it relates. The provisions of rule 31 shall, so far as may be, apply to such supplementary estimate.

33. Reappropriation.—(1) If the Director General finds in the course of the year that there is likely to be an excess of expenditure over the sanctioned budget estimate under any head, he shall examine the allotment under each head of the budget estimate with the object of discovering probable savings under any other head and effecting a reappropriation. Where such reappropriation is feasible, he may sanction the reappropriation subject to such conditions as may be laid down by the Central Government from time to time.

(2) Funds shall not be reappropriated to meet expenditure on a new service not contemplated in the budget estimates except with the prior approval of the Central Government.

(3) No reappropriation shall be permitted between the grant sanctioned for administrative expenses, two-thirds of which shall be

met by the Central Government and a grant sanctioned for any other expenditure.

34. Maintenance of accounts.—The Corporation shall maintain complete and accurate accounts in such form as the Standing Committee may, with the approval of the Central Government, specify from time to time. The books shall be balanced on the thirty-first of March each year.

35. Revenue Accounts.—The Corporation shall prepare Revenue Accounts for the financial year ended the thirty-first March and Balance Sheet as on the thirty-first March, by the thirty-first of May:

Provided that on the application of the Corporation, the Central Government may extend the said date by a period not exceeding thirty days:

Provided further that the Corporation may, and if so required by the Central Government shall, cause to be prepared the Revenue Accounts and the Balance Sheet for any other period or as on any other date.

36. Appointment of auditors.—The Central Government shall, in any case not later than the thirtieth of April immediately following the close of each financial year appoint auditors to audit the accounts for the financial year and shall notify their appointment to the Corporation and in the official Gazette.

37. Production of accounts before the auditors.—The annual accounts shall be set out and produced before the auditors for scrutiny on or before the fifteenth of June each year following the close of the financial year to which they relate:

Provided that on the application of the Corporation, the Central Government may extend the said date by a period not exceeding thirty days.

38. Powers of auditors.—The Corporation shall submit all accounts to the auditors as required by them. The auditors may—

(i) by written notice, require the production before them or before any officer subordinate to them, of any document which they may consider necessary for the proper conduct of their audit;

(ii) by written notice, require any person accountable for, or having the custody or control of, any such document, to appear in person before them or before any officer subordinate to them; and

(iii) require any person so appearing before them or before any officer subordinate to them to make and sign a declaration with respect to such document or to answer any question or prepare and submit any statement.

39. Report of auditors.—The auditors shall report on the annual accounts to the Corporation on such date and in such form as the Central Government may specify in this behalf and they shall state whether in their opinion the Balance Sheet is a full and fair Balance Sheet containing all necessary particulars and properly drawn up so as to exhibit a

true and correct view of the state of the Corporation's affairs and in case they have called for any explanation or information from the Corporation or any of its officers whether it has been given and whether it is satisfactory.

40. Consideration of reports of auditors.—The annual accounts together with the Auditors' Report thereon shall be considered by the Standing Committee and shall, together with an annual report on the work and activities of the Corporation, be placed for adoption at a meeting of the Corporation to be held before the fifteenth of October following the close of the financial year concerned.

41. Authentication of annual accounts and reports.—The annual accounts and reports as adopted by the Corporation shall be authenticated by affixing the common seal of the Corporation and four copies thereof shall be submitted to the Central Government not later than the first of November next following.

42. Cost of Audit.—The cost of audit shall be paid by the Corporation by such date as may be specified by the Central Government.

43. Publication of accounts.—The Corporation shall publish the annual accounts and the Auditors' Report thereon together with replies to each item included in the report within three months of their submission to the Central Government.

44. Impropriety or irregularity in accounts.—(1) The auditors shall submit to the Corporation and the Central Government a separate statement, if necessary, in regard to—

(i) any material impropriety or irregularity which they may observe in the expenditure, or in the recovery of moneys due to, or in the accounts of the Corporation; or

(ii) any loss or waste of money or other property owned by or vested in the Corporation which has been caused by neglect or misconduct, with the names of the persons who in their opinion are directly or indirectly responsible for such loss or waste.

(2) The Standing Committee shall forthwith remedy any defect or irregularity that may be pointed out by the auditors and shall report to the Central Government the action taken by it thereon within ninety days of the receipt of the report of the auditors:

Provided that if there is a difference of opinion between the Standing Committee and the auditors, or if the Standing Committee does not remedy any defect or irregularity within a reasonable period, the Central Government may, and on a reference specifically made therefor, shall pass such orders thereon as they think fit and the Standing Committee shall thereafter take action in accordance therewith within such time as may be specified by the Central Government.

45. Disallowance of expenditure incurred and surcharge for the loss or deficiency.—(1) The Standing Committee or any authority authorized by it in this behalf may after giving the person concerned an opportunity to submit an explanation, and after considering any

such explanation, disallow any item of account contrary to the provisions of the Act or of the rules or regulations made thereunder and surcharge the same on the person making or authorizing the making of payment of such account and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person :

Provided that no certificate made by the authority authorized by the Standing Committee shall have effect unless it is approved by the Standing Committee.

(2) The Standing Committee shall state in writing its reasons for every disallowance, surcharge or charge made or approved by it and shall serve a certificate of the amount due and a copy of the reasons for its decision on the person against whom the certificate is made and shall also furnish copies thereof to the Central Government.

(3) Any person aggrieved by a certificate made under this rule may, within one month from the date of the service of certificate on him under sub-rule (2), file an application to the Central Government for setting aside or modifying the disallowance, surcharge or charge in respect of which the certificate was made.

(4) On receipt of an application under sub-rule (3) or on its own motion, the Central Government may, after making such inquiry as may be necessary, pass such order as it thinks fit either confirming, modifying or setting aside the disallowance, surcharge or charge in respect of which the certificate was made, and the Standing Committee shall thereupon take action in accordance with such order within such time as may be specified by the Central Government.

(5) The Central Government may by order direct that all further action under the certificate made under this rule shall be stayed until the disposal of the matter pending before it under sub-rule (4).

46. Recovery of amounts certified to be due.—(1) Every sum certified to be due from any person by the Standing Committee or if the certificate has been modified by the Central Government, the sum shown to be due from such person in the modified certificate, shall be paid by such person to the Corporation within three months after he has been served with the certificate of the Standing Committee; or within such longer period as may be allowed by the Central Government; any such sum, if not so paid, shall be recovered as if it were an arrear of land revenue.

(2) Any sum or part of a sum so paid or recovered, the certificate in respect of which is set aside or modified, shall, as the case may require, be wholly or partly refunded to the person who paid it.

CHAPTER VI.

47. Establishment of Provident Fund.—The Corporation shall establish, maintain and contribute to a Provident Fund called the

Employees' State Insurance Corporation Provident Fund (hereinafter referred to as the Provident Fund) in respect of its employees other than those whose services are placed at the disposal of the Corporation by the Central or State Government.

48. *Administration of the Provident Fund.*—The Provident Fund shall be administered by the Standing Committee of the Corporation or by any other Committee approved by it for the purpose and subject to such conditions as it may deem fit to impose.

49. *Framing of Provident Fund Regulations.*—The Corporation may, subject to the previous approval of the Central Government, make regulations to provide for all other matters incidental to or necessary for the Provident Fund.

FORM

FORM 1

(See Rule 21)

Book
Number

Receipt
Number

Received from

the sum of Rs.

(in words)
account of
Rs.

on

Chief Accounts Officer

Authorized Officer

Entered in Cash Book Page Number
Accountant

Book
Number

Receipt
Number

Received from

the sum of Rs.

(in words)
account of
Rs.

on

Chief Accounts Officer

Authorized Officer

The Employees' State Insurance Corporation.

THE EMPLOYEES' STATE INSURANCE (GENERAL) REGULATIONS, 1950.¹

CHAPTER I.

²[1. *Short title and extent.*—(1) These Regulations may be called the Employees' State Insurance (General) Regulations, 1950.

(2) They extend to the whole of India except the State of Jammu and Kashmir.]

2. *Definitions.*—In these regulations, unless the context otherwise requires—

(a) 'Act' means the Employees' State Insurance Act, 1948 (XXXIV 1948);

(b) 'Appointed Day' means with reference to any area, factory or establishment, the day from which the whole of Chapters IV and V of the Act apply to such area, factory or establishment, as the case may be;

(c) 'Appropriate Office', 'appropriate Local Office' or 'appropriate Regional Office' shall mean with reference to any action taken under these regulations, such office of the Corporation as may be specified³ for that purpose under a general or special order of the Corporation;

¹See Employees' State Insurance Corporation Notification No. RS/5/48, dated 17th October, 1950.

²In order to give effect to the provisions of Chapter V-A of the Employees' State Insurance Act 34 of 1948 the Central Government, in exercise of the powers under sec. 73-H of the said Act, made "The Employees' State Insurance Regulations (Temporary Amendments) Order, 1951" whereby temporary amendments to cl. (f) of regulation 2, regulations 29, 31 and 35, and Forms 2 and 6 were made w.e.f. 24-2-52. These amendments will remain operative so long as the provisions of Chapter V-A of Act 34 of 1948 are in force. (*Vide* Notification No. S. R. O. 252, d/- 1-2-52, pub. in Gazette of India, d/- 9-2-52, Pt. II—Sec. 3, pp. 271—272.) Subsequently the Employees' State Insurance Corporation by Notification No. RS/21/51, d/- 26-8-52 (*Vide* Gazette of India, d/- 6-9-52, Pt. IV, p. 135) besides amending regulations 4, 5, 14 and Explanation to regulation 31, has also effected similar amendments as those made by the above Order. In order to avoid reiteration the amendments effected by the Corporation have only been embodied in these regulations with relevant foot-notes.

³Subs. for original Regulation 1 by Notification No. CO-12 (13)/51 d/- 18-12-53, pub. in Gazette of India, d/- 26-12-53, Pt. IV, p. 135.

⁴The Employees' State Insurance Corporation has made such specification by Notification No. CO. 18(2)53, dated 23-2-53 (*Vide* Gazette of India, d/- 7-3-53, Pt. IV, p. 21) which runs as follows—

"It is hereby specified for general information that—

(i) for the purposes of the Employees' State Insurance (General) Regulations, 1950, and in respect of insured persons in areas in which Chapter V of the Employees' State Insurance Act, 1948, is in force, 'appropriate Local Office' shall mean the Local Office to which an insured person is for the time being allotted, and 'appropriate Regional Office' shall mean the Regional Office exercising the administrative control on the appropriate Local Office;

(ii) for the purposes of the Employees' State Insurance (General) Regulations, 1950, the 'appropriate Regional Office' shall, in respect of any factory, be the Regional Office specified in Column 2 hereunder against the State in Column 1 in which the factory is situated:—

The States of (a) Punjab, (b) Patiala and East Punjab States Union, (c) Rajasthan, (d) Himachal Pradesh, (e) Delhi, (f) Bilashpur, (g) Ajmer-Merwara.	Regional Office, Employees' State Insurance Corporation, B-9, Pusa Road, New Delhi.
The States of (a) Uttar Pradesh, (b) Vindhya Pradesh.	Regional Office, Employees' State Insurance Corporation, 7/202, Swarup Nagar, Kanpur.
The States of (a) Bombay, (b) Madhya Pradesh, (c) Madhya Bharat, (d) Saurashtra, (e) Kutch, (f) Bhopal.	Regional Office, Employees' State Insurance Corporation, Scheme C, Plot No. 3, Colaba Road, Bombay-5.
The States of (a) Madras, (b) Hyderabad, (c) Mysore, (d) Travancore-Cochin, (e) Coorg.	Regional Office, Employees' State Insurance Corporation, 162, Royapettah High Road, Mylapore, Madras-4.
The States of (a) West Bengal, (b) Assam, (c) Bihar, (d) Orissa, (e) Manipur, (f) Tripura.	Regional Office, Employees' State Insurance Corporation P. 11, Mission Row Extension, Calcutta.

The regions already formed by the E. S. I. Corporation now comprise of the areas as shown against them and are under the control of the authorities as specified in the table below from 25-11-54 (*vide* Notification No. CO. 12 (1) 54, d/- 18-11-54, pub. in Gazette of India, d/- 27-11-54, Pt. IV, p. 137):—

Regions (1)	Areas (2)	Authorities (3)
1. Delhi Region	The States of— (i) Delhi (ii) Punjab (iii) Rajasthan (iv) Madhya Bharat (v) Pepsu (vi) Ajmer (vii) Himachal Pradesh (viii) Bhopal	Regional Director, E. S. I. Corporation, B-9, Pusa Road, New Delhi.
2. Kanpur Region	The States of— (i) Uttar Pradesh (ii) Madhya Pradesh (iii) Vindhya Pradesh	Regional Director, E. S. I. Corporation, 7/202, Swarup Nagar, P. O. Box No. 160, Kanpur.
3. Bombay Region	The States of— (i) Bombay (ii) Saurashtra (iii) Kutch	Regional Director, E. S. I. Corporation, E. S. I. C. Building, Colaba Road, Bombay 5.
4. Calcutta Region	The States of— (i) West Bengal (ii) Bihar (iii) Orissa (iv) Assam (v) Manipur (vi) Tripura	Regional Director, E. S. I. Corporation, 54 Ganesh Chandra Avenue, Calcutta-1.
5. Madras Region	The States of— (i) Madras (ii) Hyderabad (iii) Mysore (iv) Travancore-Cochin (v) Coorg	Regional Director, E. S. I. Corporation, 2, Sir Desikachar Road, Mylapore, Madras-4.

(d) 'Central Rules' means the rules made by the Central Government under section 95 of the Act;

(e) 'Contribution Card' means a card issued in respect of an insured person for the purpose of affixing contribution stamps, or recording otherwise the contribution paid, in respect of such person under the Act;

(f) 'Contribution Stamp' means a stamp issued under the authority of the Corporation for the purpose of paying contributions under the Act and these regulations '[and includes for the purpose of these Regulations a token stamp issued to indicate that a contribution would have been payable in respect of an exempted employee if the provisions of Chapter V-A of the Act were not in force]';

(g) 'Employer' means the principal employer as defined in the Act;

(h) 'Employer's Code Number' means the distinguishing number allotted to an employer by the appropriate Regional Office;

(i) 'Factory or Establishment' means a factory or establishment to which the Act applies;

(j) 'Form' means a form appended to these regulations;

(k) 'Identity Card' means a card issued by the appropriate Regional Office to an insured person for identification for the purposes of the Act, the rules and these regulations;

(l) 'Inspector' means a person appointed as such by the Corporation under section 45 of the Act;

(m) 'Instructions' means instructions or orders issued by the Corporation or by such officer or officers of the Corporation as may be authorised by the Corporation in this behalf;

(n) 'Insurance Medical Officer' means a medical practitioner appointed as such to provide medical benefit and to perform such other functions as may be assigned to him and shall be deemed to be a duly appointed medical practitioner for the purposes of Chapter V of the Act;

(o) 'Insurance Number' means a number allotted by the appropriate Regional Office to an employee for the purposes of the Act, the rules and these regulations;

(p) 'Local Office' and 'Regional Office' shall mean, according to the context such subordinate office of the Corporation, set up at such place and with such jurisdiction and functions as the Corporation may, from time to time, determine;

(q) 'Local Office Manager' means a person appointed by the Corporation as such and who is the officer-in-charge of a Local Office;

(r) 'State Rules' means the rules made by a State Government under section 96 of the Act;

(s) 'Regional Director' means a person appointed by the Corporation as such for a specified region;

(t) 'Registered Midwife' means a person who is registered as a midwife under any law in force in any State providing for registration of nurses and midwives;

²Added by E. S. I. Corporation Notification No. RS/21/51, d/- 26-8-52, pub. in Gazette of India, d/- 6-9-52, Pt. IV, p. 115.

(u) 'Rules' means rules made by the Central or a State Government under the Act;

(v) 'Specified' means specified by instructions issued from time to time by the Corporation or any authorised officer;

(w) 'Year' means a calendar year except when specifically stated otherwise;

(x) All other words and expressions have the meanings respectively assigned to them in the Act or the rules, as the case may be.

3. *The manner in which the Corporation may exercise its powers.*—

(1) Where a regulation empowers the Corporation to specify, prescribe, provide, decide or determine anything or to do any other act, such power may be exercised by a resolution of the Corporation or subject to the provisions of section 18 of the Act by a resolution of the Standing Committee:

Provided that the Corporation or the Standing Committee may delegate any of the powers under these regulations to a sub-committee or to such officers of the Corporation as it may specify in that behalf.

Provided further that no power shall be delegated under this regulation which under the Act is required to be exercised by the Corporation only.

(2) Any appointment to be made by the Corporation under these regulations, shall be made by the Director General or by such other officers as may be authorised in this behalf by the Standing Committee.

*[4. *Contribution and Benefit periods.*—(1) A "Contribution period" shall be one of the following periods:—

Beginning with the mid-night of the last Saturday in	Ending with the mid-night of the last Saturday in next	Hereinafter called
(i) January —	July —	} Set A.
(ii) July —	January —	
(iii) March —	September —	} Set B.
(iv) September —	March —	
(v) May —	November —	} Set C.
(vi) November —	May —	

(2) "Benefit period" corresponding to the Contribution period in the preceding sub-regulation shall be as follows:—

From the mid-night of the last Saturday in	To the mid-night of the last Saturday in next	From the mid-night of the last Saturday in	To the mid-night of the last Saturday in next	
(i) January —	July —	October —	April —	} 'A'
(ii) July —	January —	April —	October —	
(iii) March —	September —	December —	June —	} 'B'
(iv) September —	March —	June —	December —	
(v) May —	November —	February —	August —	} 'C'
(vi) November —	May —	August —	February —	

*Subs. for former Regulation 4 by *ibid.*

5. *Allotment of Contribution and Benefit periods.*—(1) The appropriate Regional Office or, in accordance with the instructions issued in this behalf by the Corporation, the employer shall allot to each person, who is an employee within the meaning of the Act on the appointed day, one of the sets A, B or C of the contribution periods; and the first contribution period and the corresponding benefit period for such a person shall commence and end on such dates as the Director General may determine for the set of contribution periods allotted to him.

(2) In the case of a person who becomes an employee within the meaning of the Act, for the first time after the appointed day, the set of contribution periods to be allotted to him shall be as indicated below and the first contribution period in respect of the person shall commence from the midnight of night of the Saturday immediately preceding the day on which he becomes an employee and shall end when the then current contribution period, belonging to the set allotted to him, ends:—

*[Date of commencing work as above falling in the calendar months]	Set	Contribution period.	Corresponding benefit period.
(i) February-March	— A	January-July	— October-April.
(ii) April-May	— B	March-September	— December-June.
(iii) June-July	— C	May-November	— February-August.
(iv) August-September	— A	July-January	— April-October.
(v) October-November	— B	September-March	— June-December.
(vi) December-January	— C	November-May	— August-February.]

6. *Meetings of the Corporation, the Standing Committee and the Medical Benefit Council.*—The meetings of the Corporation, the Standing Committee and the Medical Benefit Council shall be held in accordance with the Central Rules at such time and place as may be fixed by the Chairman concerned.

7. *Decision by majority.*—Every matter coming up for decision before a meeting of the Corporation, the Standing Committee or the Medical Benefit Council shall be decided by a majority of persons present and voting at the meeting and in case of equality of votes the Chairman of the meeting shall have an additional casting vote.

8. *Mode of exercising vote.*—The votes shall be taken by show of hands and the names of persons voting in favour and against any proposition shall be recorded only if any member present requests the Chairman to do so.

9. *Matters to be brought before the Corporation.*—In addition to the matters which are, under any specific provision of the Act or the Central Rules, required to be placed before the Corporation, the following matters shall be referred to the Corporation for its decision:—

(a) regulations under section 97 and amendments thereto before final publication;

(b) any measures proposed under section 19 of the Act;

*Subs. for former tabular statement by *ibid.*

(c) any proposal to extend medical benefit to families under sub-section (2) of section 46;

(d) any dispute proposed to be referred to arbitration under sub-section (4) of section 58;

(e) any proposal to set up hospitals under section 59;

(f) any proposal to grant exemption under section 91;

(g) any proposal to enhance benefits under section 99;

(h) any other matter which the Corporation or its Chairman may direct the Standing Committee or the Director General to place before the Corporation.

²²[10. *Regional Boards.*—²³(1) A Regional Board may be set up for such area as may be considered appropriate by the Chairman of the Corporation and shall consist of the following members, namely:—

(a) the Minister for Labour of the State in which the Regional Headquarters is situated, *ex-officio*—*Chairman*;

(b) the Minister for Health of the State in which the Regional Headquarters is situated, or where the portfolios of Labour and Health are held by the same Minister, the Deputy Health Minister, if any, *ex-officio*, or where there is no such Deputy Health Minister, a person nominated by the Minister of Health—*Vice-Chairman*;

(c) one representative of each of the States included in the area to be nominated by the State Government concerned;

(d) the Chief Administrative Medical Officer of each of the States included in the area, *ex-officio*;

(e) one representative each of employers and employees from each of the States in the area to be nominated by the Chairman of the Corporation, in consultation with such organisations of the employers and the employees as may be recommended for the purpose by the State Governments concerned;

(f) members of the Corporation, other than the Chairman and the Vice-Chairman and officials nominated by the Central Government, under clause (c) of section 4 of the Act, residing in the area—*ex-officio*;

Provided that where the Chairman of the Corporation so considers it to be expedient, he may nominate such additional representatives of employers and employees, not exceeding 3 from each side, with a view to providing for the adequate representation of important organisations not included in the nominations of the State Governments concerned, and to maintaining the parity between the number of representatives of such employers and employees.]

(2) A Regional Board may, if it considers it desirable, co-opt a member of the medical profession in the area and the person so co-opted shall continue to be a member thereof during the pleasure of the Regional Board.

²²Subs. for original Regulation 10 by Notification No. CO 12(7)/53, d/- 17-9-53, pub. in Gazette of India, d/- 26-9-53, Pt. IV, p. 101.

²³Subs. for former sub-regulation (1) by Notification No. CO. 12(1)54 (a), d/- 25-11-54; vide Gazette of India, d/- 4-12-54, Pt. IV, p. 139.

(3) The Regional Director or Officer-in-charge of the Regional Office shall be the Secretary of the Board.

(4) ²⁰(i) Save as expressly provided in this regulation, the term of office of the members of the Regional Board referred to in clauses (e) and (f) of sub-regulation (1), shall be two years commencing from the date on which their nomination is notified, provided that the members of the Regional Board, shall, notwithstanding the expiry of the said period, continue to hold office until the nomination of their successors is notified.

(ii) Save as expressly provided in this regulation, the members of the Regional Board referred to in ²⁰[clause (e)] of sub-regulation (1) shall hold office during the pleasure of the State Government nominating them.

²⁰(iii) A member of the Regional Board referred to in clause (g) of sub-regulation (1) shall cease to hold office when he ceases to be a member of the Corporation or ceases to reside in that area.

²⁰(iv) Any member referred to in clause (i) of this sub-regulation nominated to fill a casual vacancy shall hold office for the remainder of the term of office of the member in whose place he is nominated.

(v) An outgoing member shall be eligible for renomination.

²²(5) A member of the Regional Board referred to in clause (e) or (f) of sub-regulation (1) above, may resign his office by notice in writing to the Chairman of the Corporation, through the Chairman, Regional Board, and his seat shall fall vacant on the acceptance of the resignation.

²²(6) (i) A member of the Regional Board referred to in clause (e) or (f) of sub-regulation (1) shall cease to be a member of the Board if he fails to attend three consecutive meetings thereof provided that his membership may be restored by the Chairman of the Corporation of his being satisfied as to the unavoidable nature of the circumstances which led to his non-attendance.

(ii) When any person nominated to represent an employers' or employees' organisation on the Regional Board has ceased to represent such organisation, the Chairman of the Corporation, may, by notification in the Gazette of India, declare that such person shall cease to be member thereof with effect from such date as may be specified therein.

(7) The members of the Regional Board shall receive such fees and allowances as may be prescribed by the Central Government for members of the Corporation.

(8) A member shall be disqualified for being nominated or for being a member of the Regional Board:—

²⁰In view of the amendment of sub-regulation (1) (see I.n. 5b), sub-regulations (4) (i), (iii), (iv), (5) and (6) (i) require, it is submitted, corresponding modifications with regard to the references made of different clauses of sub-regulation (1) as they now stand after the said amendment.

²²Subs. for "clauses (b) and (c)" by Notification No. CO. 12(1)54(a), d/- 25-11-54; vide Gazette of India, d/- 4-12-54, Pt. IV, p. 139.

(i) if he is declared to be of unsound mind by a competent court; or

(ii) if he is an undischarged insolvent; or

(iii) if before or after the commencement of the Regulations he has been convicted of an offence involving moral turpitude.

(9) The Secretary shall, with the approval of the Chairman, fix the date, time and place of, and also draw up the Agenda for, every meeting. Notice of not less than ten days from the date of posting shall ordinarily be given to every member for each meeting, provided that if it is necessary to convene an emergency meeting, a reasonable notice thereof shall be given to every member. No matter other than that included in the Agenda shall be considered except with the permission of the Chairman.

(10) No business shall be transacted at any meeting unless there is a quorum of not less than one-third of the number of the members on the Board; provided that if at any meeting, sufficient number of members are not present to form a quorum, the Chairman may adjourn the meeting to a date not later than seven days from the date of original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members present.

(11) All matters shall be decided by a majority of persons present and voting and in case of equality of votes, the Chairman shall have a casting vote or a second vote.

(12) The Chairman or in his absence the Vice-Chairman of the Regional Board shall preside at the meetings. In the event of the absence of both the Chairman and the Vice-Chairman the members present may elect one from amongst themselves to preside.

(13) (i) The minutes of each meeting showing *inter alia* the names of the members present thereat shall be forwarded to all members of the Regional Board as soon after the meeting as possible and in any case not later than fifteen days from the date of the meeting.

(ii) The records of the minutes of each meeting shall be signed by the Chairman after confirmation with such modifications as may be considered necessary at the meeting, at which the minutes are confirmed.

(14) A Regional Board shall perform the following functions in respect of the Region for which it is set up:—

(a) such administrative and/or executive functions as may, from time to time, be entrusted or delegated to it by a resolution, by the Corporation or the Standing Committee.

(b) To make recommendations from time to time in regard to changes which may in its opinion be advisable in the Act, Rules and Regulations, and forms and procedure to be followed in the running of the Scheme.

(c) To refer such complaints as it may consider necessary to the Director-General with its recommendations.

(d) To advise the Corporation on such matters as may be referred to it for advice by the Standing Committee or the Director-General.

(15) (i) If in the opinion of the Corporation, the Regional Board persistently makes default in performing the duties imposed on it by or under this regulation or abuses its powers, the Corporation may by notification in the Gazette of India supersede the Regional Board.

(ii) Upon the publication of a notification under clause (i) above superseding the Regional Board, all the members of the Regional Board shall from the date of such publication be deemed to have vacated their offices.

(iii) When the Regional Board has been superseded the Corporation may—

(a) immediately constitute a new Regional Board in accordance with this regulation; or

(b) appoint such agency for such period as it may think fit to exercise the powers and perform the functions of the Regional Board and such agency shall be competent to exercise all powers and perform all the functions of the Regional Board.]

***[10-A. Local Committee.]—**(1) A local committee may be set up for such area as may be considered appropriate by the Regional Board and shall consist of the following members, namely:—

(a) a Chairman to be nominated by the Chairman, Regional Board, who shall be an official of the Corporation or of the State in which the area is situated;

(b) an official of the State to be nominated by the State Government;

(c) the Administrative Medical officer-in-charge of the Scheme in the area concerned, *ex-officio*, or any other medical officer nominated by him;

(d) such number, not being less than two nor more than four, of representatives of employers in the area as may be considered appropriate by the Chairman, Regional Board, to be nominated by him, in consultation with such employers' organisations as may be recommended for the purpose by the State Government;

(e) an equal number of representatives of employees in the area to be nominated by the Chairman, Regional Board, in consultation with such organisations of employees as may be recommended for the purpose by the State Government;

(f) an official of the Corporation to be nominated by the Director-General, who shall also act as Secretary to the Committee;

Provided that where the Chairman, Regional Board, so considers it to be expedient, he may nominate such additional representatives of employers and employees, not exceeding two from each side, with a view to providing for the adequate representation of important organisations not included in the nominations of the State Government and to maintaining the parity between the number of representatives of such employers and employees;

^{*}Inserted by Notification No. CO. 12(1)54(b), d/- 25-11-51, vide Gazette of India, d/- 4-12-54, Pt. IV, p. 139.

Provided further that in any area in which medical care is provided through a panel system, a local committee may co-opt a member representing the local Insurance Medical Practitioners.

(2) (i) The term of office of the members of a local committee nominated under clauses (d) and (e) of sub-regulation (1) shall be two years, commencing from the date on which their nomination is notified, provided that such members shall, notwithstanding the expiry of the said period, continue to hold office until the nomination of their successor is notified.

(ii) The members of a local committee nominated under clauses (b), (c) and (f) of sub-regulation (1) shall hold office during the pleasure of the authority nominating them.

(3) A member of a local committee may resign his office by notice in writing to the Chairman, Regional Board, and his seat shall fall vacant on the acceptance of the resignation.

(4) (i) A member of a local committee shall cease to be a member of the committee if he fails to attend three consecutive meetings thereof provided that his membership may be restored by the Chairman, Regional Board, on being satisfied as to the unavoidable nature of the circumstances which led to his non-attendance.

(ii) Where in the opinion of the State Government any person nominated to represent employers or employees on a local committee has ceased to represent such employers or employees, the Chairman, Regional Board, may declare that such person shall cease to be a member thereof with effect from such date as may be specified by him.

(5) The members of the Committee shall receive such fees and allowances as may be specified by the Central Government.

(6) The Secretary, shall, in consultation with the Chairman, fix the date, time and place of, and also draw up the Agenda for every meeting. Notice of not less than seven days shall ordinarily be given to every member for such meeting. No matter other than that included in the Agenda shall be considered except with the permission of the Chairman.

(7) No business shall be transacted at any meeting of a Committee unless there is a *quorum* of not less than one third of the number of members of the Committee.

(8) All matters at a meeting of a local committee shall be decided by a majority of persons present at the meeting and voting, and in case of equality of votes, the Chairman shall have a casting vote or a second vote.

(9) A local committee shall perform the following functions in respect of the area for which it is set up, namely:—

(a) to discuss local problems in regard to the Employees' State Insurance Scheme so as to secure its efficient working with the full co-operation of all parties concerned and to make recommendations;

(b) to refer such complaints as it may consider necessary to the Regional Director concerned, or in the case of complaints concerning

medical benefit, to the State Government or such authority as that Government may nominate for the purpose, and

(c) to advise the Corporation or the Regional Board concerned on such matters as may be referred to it for advice.]

CHAPTER II.

Collection of Contributions, etc.

11. Declaration by persons in employment on appointed day.—The employer in respect of a factory or an establishment shall require every employee in such factory or establishment to furnish and such employee shall on demand furnish to him either before or on the appointed day correct particulars required for the purpose of Form 1 (hereinafter referred to as the Declaration Form). Such employer shall enter the particulars in the Declaration Form and obtain the signature or the thumb impression of such employee and also complete the form as indicated thereon. The temporary identification certificate duly completed shall thereafter be detached from the form and handed over to the employee.

12. Declaration by persons engaged after the appointed day.—(1) The employer in respect of a factory or an establishment shall, before taking any person into employment in such factory or establishment after the appointed day, require such person (unless he can produce an Identity Card or other document in lieu thereof issued to him under these regulations) to furnish and such person shall on demand furnish to him correct particulars required for the Declaration Form. Such employer shall enter the particulars in the Declaration Form and obtain the signature or the thumb impression of such person and also complete the form as indicated thereon. The temporary identification certificate duly completed shall be detached from the form and handed over to the person after he has been taken into employment.

(2) Where an Identity Card is produced under sub-regulation (1), the employer shall make relevant entries thereon.

13. Preparation of Contribution Card.—The employer shall prepare a Contribution Card in Form 2, in respect of every employee in his employment on the appointed day or who is taken into employment after that day, including those who produce an Identity Card and in respect of whom no fresh Declaration Form is prepared.

14. Declaration Forms to be sent to [appropriate] Office.—The employer shall send to the appropriate [* * *] Office by registered post or messenger, all Declaration Forms prepared under these regula-

*Subs. for the word "Regional" by Notification No. RS/21/51, d/- 26-8-52, pub. in Gazette of India, d/- 6-9-52, Pt. IV, p. 115.

*The word "Regional" omitted by *ibid*.

tions together with a return in duplicate in Form 3 on or before the Saturday following the end of the week in which the particulars for the Declaration Forms were furnished.

15. Allotment of Insurance Number.—On receipt of the return required under regulation 14, the appropriate Regional Office shall promptly allot an Insurance Number to each person in respect of whom the Declaration Form has been received unless it finds that the person had already been allotted an Insurance Number. The Insurance Number shall be communicated to the employer and shall be entered by the employer on the Contribution Card of the person.

16. The Corporation to receive assistance from employers.—An employer shall render all necessary assistance which the Corporation may require in connection with the registration of his employees and specially for photographing such employees and affixing the photographs to the Identity Cards.

17. Identity Cards.—The appropriate Regional Office shall arrange to have an Identity Card prepared in Form 4 for each person in respect of whom an Insurance Number is allotted and shall send all such Identity Cards to the employer. Such employer shall obtain the signature or thumb impression of the employee on the Identity Card and shall after making relevant entries thereon, deliver the Identity Card to the employee and obtain a receipt therefor.

18. Loss of Identity Card.—In case of loss, defacement or destruction of an Identity Card, the insured person shall report the matter to the appropriate Local Office, and the Corporation may issue a duplicate copy of the Identity Card on payment of a fee of two rupees.

19. Period for which Contribution Card valid.—A Contribution Card issued under these regulations shall be current till the end of the contribution period in respect of the person to whom it relates.

20. Fresh Contribution Card.—Every employer shall on or before the expiration of the period of currency of a Contribution Card prepare in respect of the employee to whom the card relates a fresh Contribution Card in Form 2 for the next contribution period.

21. Custody of Contribution Cards.—The employer shall retain the Contribution Cards in respect of the employees in his factory or establishment and be responsible for the custody thereof so long as such cards are not disposed of in accordance with the provisions of these regulations.

22. Inspection of Contribution Cards by Inspector.—An employer being in possession of any Contribution Card shall produce it for inspection at any reasonable time when required to do so by an Inspector or by any other official of the Corporation authorised by it, and, if so, required; shall deliver the Contribution Card to the Inspector or official who may, if he thinks fit, retain it. The Inspector or the official shall give a receipt in Form 5 for a Contribution Card retained by him.

The employer shall prepare immediately another Contribution Card in respect of the person whose card has been retained by the Inspector or the official and shall enter on the fresh card the particulars of the stamps on the card given to the Inspector or the official.

23. Inspection of Contribution Cards by employees.—Every employer having the custody of the Contribution Card of an employee shall give him a reasonable opportunity to inspect his card, if he so desires: provided that no person shall be entitled by virtue of this provision to inspect his Contribution Card more than once in any calendar month or except during such reasonable hours as may be fixed by the employer for the purpose.

24. Loss of Contribution Card.—Where the Contribution Card of any person while in the custody of an employer is destroyed or lost or is defaced in any material particular, the employer shall forthwith report the destruction, loss or defacement of the Contribution Card to the appropriate Regional Office and shall forthwith prepare a new Contribution Card in respect of such person and arrange for affixing thereon the contribution stamps which should have been affixed upto date, or for recording the particulars regarding contributions paid in cash upto date.

25. Refund for Contribution Stamps.—The Corporation may, subject to satisfactory evidence being produced, and subject to such other conditions as it may lay down, grant a refund for contribution stamps which were affixed to a card destroyed, lost or defaced.

26. Contribution Cards to be sent to Regional Office.—An employer, being in possession of a Contribution Card in respect of any person, shall send it by registered post or messenger, together with a return in duplicate in Form 6 to the appropriate Regional Office—

(a) within 7 days of the date on which he comes to know of the death of such person;

(b) within 7 days of the date of receipt of a requisition in that behalf from the appropriate Regional Office;

(c) within 15 days of the termination of the contribution period to which it relates.

27. [Return of employment]. (Omitted by Notification No. CO. 12(1)54, d/- 15-12-54.)

28. Preparation of Contribution Cards by the Corporation.—Notwithstanding anything contained in these regulations the Corporation may, after intimation to the employer, prepare and issue Contribution Cards for any contribution period in respect of any person to whom the Act applies, and where it does so the employer shall not issue any Contribution Card in respect of such person and such period.

29. Payment of Contribution by Stamps.—Every contribution payable under the Act shall, except as otherwise provided herein, be paid by affixing contribution stamps on the Contribution Card of the

employee in the space indicated for that purpose upon the Card. The contribution stamps shall be of such shape and design as the Corporation may from time to time determine, and shall be sold in such manner and at such agencies as the Corporation may notify from time to time.

*[Provided that in the case of an exempted employee in respect of whom contribution would have been payable if the provisions of Chapter V-A of the Act had not been in force, the fact that such contribution would have been so payable shall be indicated by affixing a token stamp on the contribution card of that employee in the space provided for the purpose.]

30. Contribution Stamp Book.—Every employer shall keep a 'Contribution Stamp Book' in a specified form in which shall be entered all purchases and utilisations of contribution stamps by the employer, and such book shall be open to inspection by an Inspector or any other official of the Corporation authorised by it.

31. Time for payment of Contribution.—An employer who is liable to pay contribution in respect of any employee shall pay those contributions within the following periods:—

(a) within 10 days of the last day of the wage period in which the contribution falls due;

(b) within 14 days of the termination of employment irrespective of whether the employment is terminated with or without notice;

(c) within 14 days after the termination of the contribution period in respect of every employee, whichever period is earlier.

*[Provided that, in the case of an exempted employee the token stamp in respect of any week shall be affixed within such time as the contribution in respect of that week would have been payable if the provisions of Chapter V-A of the Act had not been in force.]

Explanation.—For the purpose of this regulation, the expression 'wage period' shall have the meaning assigned to it in the ¹[Schedule I to the Act].

32. Register of employees.—(i) Every employer shall maintain a register showing the following particulars in respect of each wage period in respect of every employee in his factory or establishment:—

(a) Name;

(b) Insurance No.;

(c) Occupation;

(d) Department and shift, if any;

(e) Wage group in Schedule I to the Act to which the employee belongs in respect of that wage period;

¹Proviso inserted by E. S. I. Corporation Notification No. RS/21/51, d/- 26-8-52, pub. in Gazette of India, d/- 6-9-52 Pt. IV, p. 115.

²Inserted by *ibid.*

³Subs. for "Payment of Wages Act, 1936 (IV of 1936)" by *ibid.*

(f) Number of contribution weeks for which contribution fell due in the wage period;

(g) Total contribution under the Act for the wage period; and

(h) Employee's share of the contribution:

Provided that the employer shall be deemed to have complied with this regulation sufficiently if in any register maintained by him the additional particulars required under this regulation are also shown.

(ii) Every employer shall preserve every register maintained under this regulation after it is filled for a period of five years from the date of the last entry therein.

33. Other modes of payment of Contribution.—Subject to the directions of the Standing Committee, the Director General may, if he thinks fit and subject to such terms and conditions as he may impose, approve of any arrangement, including payment in cash, whereby contributions are paid at times or in a manner other than those specified in these regulations and such arrangements may include provision for the payment to the Corporation of such fees as may be determined by him to represent the estimated additional expenses to the Corporation, and may require such deposit of money by way of security as he may determine.

34. Cancellation of Contribution Stamps.—(1) An employer shall, immediately after affixing a contribution stamp to any Contribution Card, cancel the stamp by writing in ink, or stamping with a metallic die with black indelible ink across the face of the stamp, the date upon which it is affixed, the employer's code number and such other particulars, if any, as the Corporation may specify, and save as expressly provided in these regulations, no other writing or mark and no perforation shall be made on a contribution stamp.

(2) An employer may, if he thinks fit, inscribe upon the Contribution Card of an employee, the number of that employee upon the pay-list or in the books of the employer.

[35. Reasons for non-payment of contributions.—Where no contribution is payable or in the case of an exempted employee, so long as Chapter V-A of the Act is in force where no token stamp is affixed in respect of a week or weeks in any contribution period, the reason for non-payment or non-affixation shall be clearly indicated in writing in the space provided for affixing stamps or recording contributions.]

36. Employment for part of a week.—Where an employee is employed by an employer for part of a week and where such employee was not employed earlier during that week in any factory or establishment the contribution in respect of such week shall fall due on the last day of employment by such employer in that week.

37. Employment by two or more employers successively in any week.—Where an employee is employed by two or more employers

*Subs. for former Regulation 35 by *ibid.*

successively in any week, the first employer employing him in that week shall be treated as his employer for the purposes of the provisions of the Act and the regulations relating to contributions, and the contribution in respect of such week shall fall due on the last day of employment by the first employer during that week.

38. Scheme by joint employers.—Where an employee is ordinarily employed by two or more employers in a week, the employers of such an employee may, if they think fit, submit to the Corporation a scheme for the payment of contributions in respect of such employee and the Corporation may, if it is satisfied that the scheme is such as will secure the due payment of the contributions, approve such a scheme subject to such terms and conditions as it may think necessary:

Provided that if no such scheme is submitted to or approved by the Corporation, the Corporation may specify that any one of such employers shall be treated as the employer for the purposes of the provisions of the Act and the regulations relating to contributions, and in such a case the contribution for any week shall fall due on the last day of the week on which an employee was employed by the employer so specified.

39. Reckoning of wages of employee employed by two or more employers in the same week.—Where an employee is employed by an employer for only a part of the week, or where an employee is employed by two or more employers in a week, only the wages payable to him for the days upto and including the day on which the contribution falls due for that week shall be taken into account in reckoning wages for the purposes of determining the average daily wages of the employee for that week.

[40. Refund of Contribution erroneously paid.—(1) Any contribution paid by a person under the erroneous belief that the contributions were payable by that person under the Act may be refunded without interest by the Corporation to that person, if application to that effect is made in writing before the commencement of the benefit period corresponding to the contribution period in which such contribution was paid.

(2) Where any contribution has been paid by a person at a rate higher than that at which it was payable the excess of the amount so paid over the amount payable may be refunded without interest by the Corporation to that person, if application to that effect is made before the commencement of the benefit period corresponding to the contribution period in which such contribution was paid.

(3) In calculating the amount of any refund to be made under this regulation there may be deducted the amount, if any, paid to any person by way of benefit on the basis of the contribution erroneously paid and for the refund of which the application is made.

²Subs. for original Regulation 40 by Notification No. CO-12 (13)/51, d/- 18-12-53, Pub. in Gazette of India, d/- 26-12-53, Pt. IV, p. 135.

(4) Where the whole or part of the amount of any contribution referred to in sub-regulations (1) & (2), was recovered from an immediate employer or deducted from the wages of an employee by the principal employer, he shall, on getting the refund of the amount from the Corporation be liable to pay back the amount so recovered or deducted to the person from whom the amount was so recovered or deducted.

(5) Applications for refund under this regulation shall be made in such form and in such manner and shall be supported by such documents as the Director-General may, from time to time, determine.]

41. Allowance for destroyed Contribution Stamps.—Subject to such conditions as the Corporation may lay down and to the production of such evidence by way of affidavit or otherwise as the Corporation may require, allowance may be made by the Corporation for a contribution stamp which has been inadvertently and undesignedly destroyed, spoiled or rendered unfit for use and has not in the opinion of the Corporation been affixed to any material, provided that the application for relief is made within six months after the contribution stamp has been destroyed spoiled or rendered useless.

42. Nature of Allowance.—In a case in which allowance is made for destroyed, spoiled or misused contribution stamps, the Corporation may give in lieu thereof other contribution stamps of the same denomination and value, or if necessary and if it thinks proper, contribution stamps of any other denomination to the same amount in value, or, in its discretion, the same value in money deducting therefrom one anna per rupee as the cost of production and the sale of such stamps.

43. Unused Contribution Stamps.—Where any person is possessed of a contribution stamp which has not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Corporation shall, repay to him the value of the contribution stamp in money, upon his delivering up the contribution stamp to be cancelled and proving to the satisfaction of the Corporation that it was purchased by him from some person duly appointed to sell and distribute contribution stamps within the period of two years next preceding the application and with a bona fide intention to use it.

CHAPTER III.

Cash Benefits.

CLAIMS.

44. Claim for benefits.—Every claim for a benefit payable under the Act shall be made in writing, in accordance with these regulations, to the appropriate Local Office on the form appropriate for the purpose of the benefit for which the claim is made, or in such other manner as the appropriate office may, subject to its being in writing, accept as sufficient in the circumstances of any particular case or class of cases.

Assistance for filling in the form of claim in case of insured persons who cannot do so themselves shall be provided at the Local Offices of the Corporation.

45. When claim becomes due.—A claim for any benefit under the Act shall, for the purposes of section 80 of the Act, become due on the following days:—

(a) for sickness benefit or for disablement benefit for temporary disablement for any period, on the date of the issue of the medical certificate in respect of such period: provided that in cases where a waiting period is required the due date shall be deferred by the number of days of such waiting period;

(b) for maternity benefit, on the date of issue, in accordance with these regulations, of the certificate of expected confinement or on the day six weeks preceding the expected date of confinement so certified, whichever is later or, if no such certificate is issued, on the date of confinement;

(c) for disablement benefit for permanent disablement, on the date on which an insured person is declared as permanently disabled in accordance with these regulations; and

(d) for dependants' benefit, on the date of the death of the insured person in respect of whose death the claim for such benefit arises or the date from which a beneficiary becomes entitled to a claim, as the case may be.

46. Availability of claim forms.—Claim forms shall be available to intending claimants from such persons and such offices of the Corporation as it may appoint or authorize for that purpose, and shall be supplied free of charge.

47. Claim on wrong form.—Where a claim for any benefit has been made on an approved form other than the form appropriate to the benefit claimed, the Corporation may treat the claim as if it was made on the appropriate form: provided that the Corporation may in any such case require the claimant to complete the appropriate form.

48. Evidence in support of claim.—Every person who makes a claim for any benefit shall in addition to the medical certificate and other forms specifically required under these regulations, furnish such other information and evidence for the purpose of determining the claim as may be required by the appropriate office, and if reasonably so required, shall for that purpose attend at such office or place as the appropriate office may direct.

49. Defective claim.—If, in the absence of due signature or of due certification, a claim is defective on the date of its receipt by an office of the Corporation, the office of the Corporation may in its discretion refer the claim to the claimant and if the form is returned duly signed and/or certified within three months from the date on which it was so referred, the office may treat the claim as if it had been duly made in the first instance.

50. Claim for inappropriate benefit.—Where it appears that a person who has made a claim for any benefit payable under the Act, may be entitled to a benefit other than that which he has claimed, any such claim may be treated as a claim in the alternative for that other benefit.

51. Authority for certifying eligibility of claimants.—The authority which is to certify the eligibility of claimants shall be the appropriate Local Office, in respect of maternity and temporary disablement benefits and the appropriate Regional Office, in respect of permanent disablement benefits.

52. Benefits when payable.—(1) Any benefit payable under the Act shall be paid—

(a) in the case of sickness benefit not later than 7 days;

(b) in the case of the first payment in respect of maternity benefit or temporary disablement benefit, not later than one month;

(c) in the case of the first payment in respect of permanent disablement or dependants' benefits, not later than six months—

after the claim therefor together with the relevant medical or other certificates and any other documentary evidence which may be called for under these regulations has been furnished to the appropriate office.

(2) Second and subsequent payments in respect of any maternity, temporary disablement, permanent disablement or dependants' benefit shall be paid along with the first payment in respect thereof, or within the calendar month following the month to the whole or part of which they relate, whichever is later subject to production of any documentary evidence which may be required under these regulations.

(3) Where a benefit payment is not made within the time limits specified in sub-regulations (1) and (2) above, it shall be reported to the Insurance Commissioner and shall be paid as soon as possible.

(4) Benefits under the Act shall be paid in cash at a Local Office or at the option of the claimant * [and subject to deduction of the cost of remittance] by means of postal money orders or other orders payable through a post office, or by any other means which the appropriate office may in the circumstances of any particular case consider appropriate.

(5) Where the payment of a benefit is to be made at a Local Office, such office may insist upon the production of the Identity Card or other document issued in lieu thereof in respect of the insured person.

CERTIFICATION AND CLAIMS FOR SICKNESS AND TEMPORARY DISABLEMENT.

53. Evidence of sickness and temporary disablement.—Every insured person, claiming sickness benefit or disablement benefit for

* Inserted by Notification No. CO—12(13)/51, d/- 18-12-53, pub. in Gazette of India, d/- 26-12-53, Pt. IV, p. 135.

temporary disablement, shall furnish evidence of sickness or temporary disablement in respect of the days of his sickness or temporary disablement by means of a medical certificate given by an Insurance Medical Officer in accordance with these regulations in the form appropriate to the circumstances of the case:

Provided that the Corporation may accept any other evidence of sickness or temporary disablement if in its opinion the circumstances of any particular case so justify.

54. Persons competent to issue medical certificate.—No medical certificate under these regulations shall be issued except by the Insurance Medical Officer to whom an insured person has been allotted or by an Insurance Medical Officer attached to a dispensary, hospital, clinic or other institution to which an insured person is allotted and such Insurance Medical Officer shall examine and if in his opinion the condition of the insured person so justifies, issue to such insured person free of charge, any medical certificates reasonably required by such insured person under or for the purposes of the Act or any other enactment or these regulations:

Provided that an Insurance Medical Officer may issue a medical certificate under these regulations to an insured person who is not allotted to him or to the dispensary, hospital, clinic or other institution to which he is attached, if such officer is satisfied that in the circumstances of any particular case the insured person cannot reasonably be expected to get medical benefit from the Insurance Medical Officer or the dispensary, hospital, clinic or other institution to which such insured person has been allotted; and such certificate also shall be issued free of charge:

Provided further that an insured person shall not be granted a medical certificate unless he produces to the Insurance Medical Officer his Identity Card or such other 'documents', as under these regulations, may have been issued in lieu thereof.

55. Medical Certificate.—The appropriate form of a medical certificate shall be filled in ink by the Insurance Medical Officer in his own hand-writing and shall contain a concise statement of the disease or disablement which in the opinion of the Insurance Medical Officer necessitates abstention from work on medical grounds or renders the person temporarily incapable of work. The statement of the disease or disablement in the medical certificate shall specify the nature thereof as precisely as the Insurance Medical Officer's knowledge of the condition of the insured person at the time of the examination permits.

56. Time of granting medical certificate.—(a) An Insurance Medical Officer shall give the medical certificate to an insured person at the time of the examination to which it relates; where he is prevented from so doing he shall send the certificate to the insured person within twenty-four hours thereafter.

(b) No further medical certificate relating to the same examination shall be issued, except where a duplicate of such certificate is required,

in which case it shall be issued free of charge and clearly marked 'Duplicate'.

***[57. Medical certificate on first examination.**—Where the examination is the first examination in respect of a spell of sickness or a spell of temporary disablement, the medical certificate shall be in the form of a first certificate (Form 8) and shall be only in respect of the date of examination:

Provided that where, in the opinion of the Insurance Medical Officer, the insured person is likely to become fit to resume work on a date not later than the third day after the date of examination, the first certificate may be issued in respect of the entire spell of sickness or temporary disablement, and, in such a case, it shall specify the date on which the insured person will, in his opinion, be fit to resume work; such a certificate shall, notwithstanding anything contained in the Regulations, be also treated as a final certificate.]

58. Final medical certificate.—If at the date of the examination to which a medical certificate other than a first certificate relates, the insured person in the opinion of the Insurance Medical Officer is, or will become on a date not later than the third day after that date, fit to resume work, that certificate shall be in the form of a final certificate. (Form 9).

59. Intermediate certificates.—If the final certificate is not issued within seven days of the date of the first certificate, an insured person shall, except where the case is covered by regulation 61, submit certificates in the form of intermediate certificates (Form 10) at intervals of not more than seven days each, commencing from the date of the first certificate.

60. Final medical certificate before commencing work for wages.—Every insured person shall obtain a medical certificate in the form of a final certificate before he takes up any work for wages.

61. Intermediate certificate *[* * * *] for a longer period.—Where temporary disablement [or sickness] has continued for not less than twenty-eight days and the Insurance Medical Officer is satisfied that such disablement [or sickness] is likely to continue for a longer period and that, owing to the nature of the disablement [or sickness], examination and treatment at intervals of more than one week will be sufficient, the insured person may, unless otherwise directed by the appropriate office, furnish medical certificates in the form of special intermediate certificates (Form 11) at intervals of such longer periods not exceeding four weeks as may be specified by the Insurance Medical Officer.

62. Certified sickness.—Sickness in respect of any periods shall be deemed to be duly certified for the purposes of section 48 of the Act,

*Subs. for original Regulation 57 by *ibid.*

*The words "where temporary disablement likely to continue" omitted by *ibid.*

†Inserted by *ibid.*

provided that medical certificates in respect of such periods are issued in accordance with these regulations and such certificate is submitted to the appropriate Local Office by post or otherwise within fourteen days of the date of its issue.

63. Form of Claim for sickness or temporary disablement.—An insured person intending to claim sickness benefit or disablement benefit for temporary disablement shall submit to the appropriate Local Office by post or otherwise, a claim for benefit in one of the Forms 12, 13 and 14, appropriate to the circumstances of the case together with the appropriate medical certificate.

64. Failure to submit medical certificate.—If a person who intends to claim sickness benefit or disablement benefit for temporary disablement fails to submit to the appropriate Local Office by post or otherwise the first medical certificate or any subsequent medical certificate within a period of three days from the date of issue of such certificate, he shall not be eligible for that benefit in respect of any period (i) in the case of a first certificate, more than three days before the date on which the certificate is submitted to the appropriate Local Office; (ii) in the case of a subsequent certificate, more than fourteen days before the date on which such subsequent certificate is submitted to the appropriate Local Office.

^{1a}[Provided that the appropriate Regional Office may relax all or any of the provisions of this regulation in any particular case, if it is satisfied that the delay in submitting a certificate was due to *bona fide* reasons.]

DISABLEMENT BENEFIT.

65. Notice of accident.—(i) Every insured person who sustains personal injury caused by accident arising out of and in the course of his employment in a factory or establishment shall give notice of such injury either in writing or orally, as soon as practicable after the happening of the accident:

Provided that any such notice required to be given by an insured person may be given by some other person acting on his behalf.

(ii) Every such notice shall be given to the employer or to a foreman or to other official under whose supervision the insured person is employed at the time of the accident or any other person designated for the purpose by the employer and shall contain the appropriate particulars.

(iii) Any entry of the appropriate particulars of the accident made in a book kept for that purpose in accordance with the next following regulation shall, if made as soon as practicable after the happening of the accident by the insured person or by some other person

^{1a}Added by Notification No. CO. 12(1)54. d/- 15-11-54; vide Gazette of India, d/- 27-11-54, Pt. IV, p. 117.

acting on his behalf, be sufficient notice of the accident for the purposes of these regulations.

(iv) In this regulation and the next following regulation, the expression 'appropriate particulars' means the particulars indicated below—

(a) Full name, Insurance Number, sex, age, address, occupation, department and shift of the injured person;

(b) Date and time of accident;

(c) Place where accident happened;

(d) Cause and nature of injury;

(e) Name, address and occupation of the person giving the notice, if he is other than the injured person;

(f) A statement of what exactly the injured person was doing at the time of injury;

(g) Names, addresses and occupation of two persons who were present at the spot when accident happened; and

(h) Remarks if any.

66. Maintenance of accident book.—Every employer shall—

(i) keep a book readily accessible (hereinafter called 'the Accident Book') in Form 15, in which the appropriate particulars of any accident causing personal injury to an insured person may be entered;

(ii) preserve every such book when it is completed for a period of five years from the date of the last entry thereon.

67. Notice otherwise than by an entry in accident book.—If notice of an employment injury under regulation 65 is given otherwise than by an entry in the Accident Book it shall be the duty of the employer or any other person to whom such notice is given under that regulation to make an appropriate entry in the book in respect of the accident to which the notice relates immediately after such notice is received, and where the notice is received otherwise than in writing read over the particulars to the person who gives the notice and obtain his signature or thumb impression on the Accident Book.

68. Report of accident by an employer.—Every employer shall send a report in Form 16 to the nearest Local Office and to the nearest Insurance Medical Officer—

(i) immediately, if the injury is serious, *i.e.*, it is likely to disable the person for 48 hours or more, and

(ii) in any other case within 24 hours after the receipt of the notice under regulation 65 or of the time when the accident came to the notice of the employer or of a foreman or other official under whose supervision the insured person was employed at the time of the accident or any other person designated for the purpose by the employer:

Provided that in case of a serious injury, and particularly when the injury results in death at the place of employment, the report to the Insurance Medical Officer and the Local Office shall be sent through a

special messenger, or otherwise, as speedily as may be practicable under the circumstances:

Provided further that where a report of the accident is made by the employer under the Factories Act, 1948, the report to the Local Office and to the Insurance Medical Officer may be made in the same form as is prescribed under the Factories Act, 1948, provided that all the additional information required under Form 16 is added thereto.

69. Employer to arrange for first aid.—Every employer shall arrange for such first aid and medical care and transport for obtaining such aid and care as the circumstances of the accident may require till the injured person is seen by the Insurance Medical Officer and such employer shall be entitled to re-imbursement in respect of expenses thereby incurred by him but not exceeding such scale of expenses as may be specified by the Corporation from time to time:

Provided that if the employer is required to provide such medical aid free of charge under any other enactment, he shall not be entitled to any reimbursement of expenses.

70. Employer to furnish further particulars of accident.—Every employer shall furnish to the appropriate office such further information and particulars of an accident and within such time as the said office may, in writing, require.

71. Directions by the Corporation.—Every claimant for and every beneficiary in receipt of disablement benefit shall comply with every direction given to him by the appropriate Regional Office which requires him either—

(i) to submit himself to a medical examination by such medical authority as may be appointed by that office for the purpose of determining the effect of the relevant employment injury or the treatment appropriate to the relevant injury or loss of faculty, or

(ii) to attend any vocational training courses or industrial rehabilitation courses provided by any institution maintained by any Government, local authority or any public or private body recognised for the purpose by the Corporation and considered appropriate by it in his case.

72. Reference to a Medical Board.—Any question as to whether disablement occurring as a result of an employment injury sustained by an employee should be treated as permanent disablement within the meaning of section 51 of the Act shall be referred to the appropriate Medical Board constituted under regulation 75. Such reference to the Medical Board may be made—

(a) at any time by the appropriate Regional Office at the instance of the disabled person or the employer or any recognised employees' union; or

(b) by the Corporation,

(i) at any time, on the recommendation of an Insurance Medical Officer, and

(ii) on its own initiative, after the expiry of the period of twenty-eight days from the first date on which the claimant was rendered incapable of work by the relevant employment injury.

73. Report of Medical Board.—The Medical Board shall after examining the disabled person, submit its report to the appropriate Regional Office making recommendations as to—

(i) whether the disablement should continue to be treated as temporary and if so, the next date when the case should again be referred to the Medical Board;

(ii) whether the disablement can be declared to be of a permanent nature and, if so, whether the extent of loss of earning capacity can be assessed provisionally or finally;

(iii) the assessment of the proportion of the loss of earning capacity whether provisional or final; and

(iv) in case of provisional assessment, the period for which such assessment shall hold good.

Provided that the assessment of a disablement due to an employment injury not restricted to one or more of the injuries listed in Schedule I of the Workmen's Compensation Act, 1923 (VIII of 1923) shall be treated as provisional. Any such assessment may be referred to a Medical Board for review by the appropriate Regional Office at any time after the expiry of twelve months from the date of the last assessment.

The disabled person shall be informed in writing of the recommendations of the Medical Board, the decision of the appropriate Regional Office thereon and the benefit, if any, to which the disabled person shall be entitled.

74. Appeal against decisions of Medical Board.—(i) If the Corporation or a disabled person is dissatisfied with the recommendations of a Medical Board the Corporation or the disabled person may appeal against such recommendations by giving notice of appeal to the other party within three months of the date of communication of the said recommendations.

(ii) A notice of appeal shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

(iii) The appeal shall lie to an Appeal Tribunal constituted under regulation 76.

75. Constitution of Medical Boards.—Medical Boards for the purposes of these regulations shall be constituted by the State Government and shall consist of such persons, have such jurisdiction and follow such procedure as the State Government in consultation with the Corporation may, from time to time, decide.

76. Appeal Tribunals.—An Employees' Insurance Court shall constitute the Appeal Tribunal for the purposes of regulation 74 and for such purpose, it shall be assisted by the following persons to be selected by it as assessors:—

- (a) One or more medical experts;
- (b) One or more officials of or members from a trade union or unions.

DEPENDANTS' BENEFIT.

77. Report of death of insured person by employment injury.—In case of death of an insured person as a result of an employment injury—

(a) if the death occurs at the place of employment, the employer shall, and

(b) if the death occurs at any other place, a dependant intending to claim dependants' benefit shall, or,

(c) any other person present at the time of death may, immediately report the death to the nearest Local Office and to the nearest dispensary, hospital, clinic or other institution where medical benefit under the Act is available.

78. Disposal of body of an insured person dying by employment injury.—Where an insured person dies as a result of an employment injury sustained as an employee under the Act, the body of the insured person shall not be disposed of until the body has been examined by an Insurance Medical Officer, who will also arrange a post-mortem examination, if considered necessary, in co-operation with any other existing agency:

Provided that if an Insurance Medical Officer is unable to arrive for the examination within 12 hours of the time of the report to him, the body may be disposed of after obtaining a certificate from such medical officer or practitioner as may be available.

79. Issue of death certificate.—An Insurance Medical Officer attending the disabled person at the time of his death or the Insurance Medical Officer who examines the body after the death or the Medical Officer who attended the insured person in a hospital or other institution where such disabled person died, shall issue free of charge a death certificate in Form 17 to the dependants of the deceased and shall send a report to the appropriate Regional Office.

80. Submission of claim for dependants' benefit.—(i) A claim for dependants' benefit shall be submitted to the appropriate Local Office by post or otherwise in Form 18 by the dependant or dependants concerned or by their legal representative or, in case of a minor, by his guardian, and such claim shall be supported by documents proving—

(i) that the death is due to an employment injury;

(ii) that the person claiming is a dependant entitled to claim as provided in paragraph 4 or 5, as the case may be, of the Second Schedule to the Act;

(iii) the age of the claimant;

Provided that where the appropriate Regional Office is satisfied about the bona-fides of the applicant or about the truth of the facts relating to any of the matters mentioned above, one or more of the documents may be dispensed with.

(2) The following may be accepted as proof of age—

- (a) Certified extract from an official record of births showing the date and place of birth and father's name;
- (b) Original horoscope prepared soon after birth;
- (c) Certified extract from baptismal register;
- (d) Certified extract from school records showing the date of birth and father's name;
- (e) Such other evidence as may be acceptable to the appropriate Regional Office in the circumstances of a particular case.

81. Notice for dependants' benefit.—On receipt of a claim or claims for dependants' benefit in respect of the death of an insured person and, after making such enquiries as may be necessary about the circumstances and cause of death and about all persons, who may be entitled to dependants' benefit, the appropriate Regional Office shall issue by registered post to such other persons, if any, as appear on enquiry, to be entitled to dependants' benefit, and who have not yet submitted a claim for such benefit a notice for submission of claims for dependants' benefit within a period of thirty days from the date of such notice. The notice shall indicate *inter alia* the relevant provisions of the Act and regulations and the procedure for submission of a claim for dependants' benefit.

82. Intimation of decision regarding dependants' benefit.—As soon as possible after the expiry of the period during which claims can be submitted in terms of the notice issued under regulation 81, the appropriate Regional Office shall intimate by registered post the decision of the Corporation in regard to the claim of each of the dependants in writing to the dependant concerned or to his legal representative, or, in the case of a minor, to his guardian.

83. Date of accrual of dependants' benefit.—The dependants' benefit shall accrue from the date of the death in respect of which the benefit is payable.

84. Review of dependants' benefit.—(1) The amounts payable as dependants' benefit in respect of the death of any insured person may be reviewed by the appropriate Regional Office at its own initiative, and shall be so reviewed if an application is made to that effect, under any of the following circumstances—

(a) if any of the beneficiaries ceases to be entitled to the dependants' benefit by reason of marriage, re-marriage, death, age or otherwise, or

(b) if a fresh dependant is admitted to the claim for dependants' benefit by the birth of a posthumous child, or

(c) if, after the previous decision as to the distribution of the dependants' benefit was taken, some facts materially affecting such distribution come to light.

(2) Any review under this regulation shall be made after giving due notice by registered post to each of the dependants, stating therein

the reasons for the proposed review and giving them an opportunity to submit objections, if any to such review.

(3) Subject to the provisions of the Act and these regulations the appropriate Regional Office may, as a result of such review, commence, continue, increase, reduce or discontinue from such date as it may decide the share of any of the dependants.

85. Declaration by persons in receipt of dependants' benefit.—The appropriate Regional Office may by notice sent by registered post require a person in receipt of dependants' benefit to submit, and such person shall submit, a declaration, attested by a Magistrate or such other authority as that office may accept in any particular case to the effect that the person is alive and, in case of a widow, that she has not been re-married, and, in case of an unmarried female dependant, that she has not been married:

Provided that such a declaration shall not be required more than once in every six months.

86. Appointment of another guardian.—If at any time the appropriate Regional Office is satisfied that a child who is in receipt of dependants' benefit is being neglected by his guardian, not being a guardian appointed under the Guardian and Wards Act, 1890, and the child's share of the dependants' benefit is not being properly spent on his or her maintenance, the appropriate Regional Office may direct that such share may be paid subject to such conditions as it may specify to such other person as it deems fit and as in its opinion would utilise it for the care and maintenance of the child.

MATERNITY BENEFIT.

87. Notice of pregnancy.—An insured woman, who decides to give notice of pregnancy before confinement, shall give such notice in Form 19 to the appropriate Local Office by post or otherwise and shall submit, together with such notice, a certificate of pregnancy in Form 20 given in accordance with these regulations on a date not earlier than seven days before the date on which such notice is given.

88. Claim for maternity benefit commencing before confinement.—Every insured woman claiming maternity benefit before confinement shall submit to the appropriate Local Office by post or otherwise—

(i) a certificate of expected confinement in Form 21 given in accordance with these regulations, not earlier than fifty days before the expected date of confinement;

(ii) a claim for maternity benefit in Form 22 stating therein the date on which she ceased or will cease to work for remuneration; and

(iii) within thirty days of the date on which her confinement takes place, a certificate of confinement in Form 23 given in accordance with these regulations.

89. Claim for maternity benefit only after confinement.—Every insured woman claiming maternity benefit after confinement shall

submit to the appropriate office by post or otherwise a claim for maternity benefit in Form 22 together with a certificate of confinement in Form 23 given in accordance with these regulations.

90. Other evidence in lieu of a certificate.—The Corporation may accept any other evidence in lieu of a certificate of pregnancy, expected confinement or confinement by an Insurance Medical Officer, if in its opinion, the circumstances of any particular case so justify.

91. Notice of work for remuneration.—Every insured woman who has claimed maternity benefit shall give notice in Form 24 if she does work for remuneration on any day during the period for which maternity benefit would be payable to her but for her working for remuneration.

92. Date of payment of maternity benefit.—Maternity benefit shall be payable from the date from which it is claimed provided that such date does not precede the expected date of confinement by more than forty-two days, and that no work is undertaken for remuneration.

93. Disqualification for maternity benefit.—An insured woman may be disqualified from receiving maternity benefit if she fails without good cause to attend for or to submit herself to medical examination when so required; and such disqualification shall be for such number of days as may be decided by the authority authorised by the Corporation in this behalf:

Provided that a woman may refuse to be examined by other than a female doctor or midwife.

94. Authority which may issue certificate.—No certificate of pregnancy, of expected confinement or of confinement required under these regulations shall be issued except by the Insurance Medical Officer to whom the insured woman has been allotted or by an Insurance Medical Officer attached to a dispensary, hospital, clinic or other institution to which the insured woman is allotted, and such Insurance Medical Officer shall examine and if in his opinion the condition of the woman so justifies issue to such insured woman free of charge any such certificate when reasonably required by such insured woman under or for the purposes of the Act or any other enactment or these regulations:

Provided that such officer may issue a certificate of pregnancy, expected confinement or confinement under these regulations to an insured woman who is not allotted to him or to the dispensary, hospital, clinic or other institution to which such officer is attached if such officer is attending the woman for prenatal care or for confinement:

Provided further that a certificate of pregnancy, of expected confinement or of confinement required under these regulations may be issued by a registered midwife which shall be accepted by the Corporation on counter signature by the Insurance Medical Officer.

95. Obligations of Insurance Medical Officer.—Nothing in these regulations shall relieve an Insurance Medical Officer to whom an insured woman has been allotted, or an Insurance Medical Officer

attached to the dispensary, hospital, clinic or other institution to which an insured woman is allotted of the obligation to examine and if in his opinion the condition of the woman so justifies, issue free of charge a certificate of pregnancy, of expected confinement or of confinement during any period in which such insured woman is obtaining treatment or attendance from any other person or from any other hospital or institution.

CHAPTER IV.

MISCELLANEOUS.

96. Authority for determining benefits.—The authority for determining for purposes of sub-section (2) of section 70 of the Act, the value of benefits other than cash payment shall be the Medical Commissioner of the Corporation.

97. Discontinuation or reduction of benefits.—An employer may discontinue or reduce benefits payable to his employees under conditions of their service which are similar to the benefits conferred by the Act to the extent specified below, namely:—

(d) from the date of the commencement of the first benefit period following the appointed day for his factory or establishment—

(i) sick leave on half pay to the full extent;

(ii) such proportion of any combined general purposes and sick leave on half pay as may be assigned as sick leave but in any case not exceeding 50 per cent. of such combined leave;

(b) any maternity benefits granted to women employees to the extent to which such women employees may become entitled to the maternity benefit under the Act:

Provided that where an employee avails himself of any leave from the employer for sickness, maternity or temporary disablement, the employer shall be entitled to deduct from the leave salary of the employee the amount of benefit to which he may be entitled under the Act for the corresponding period.

98. Discharge, etc., of employee under certain conditions.—If the conditions of service of any employee so allow, an employer may discharge or reduce on due notice an employee—

(i) who has been in receipt of disablement benefit for temporary disablement, after he has been in receipt of such benefit for a continuous period of six months or more;

(ii) who has been under medical treatment for sickness or has been absent from work as a result of illness duly certified in accordance with these regulations to arise out of the pregnancy or confinement rendering the employee unfit for work, after the employee has been under such treatment or has been absent from work for a continuous period of six months or more.

99. Suspension of sickness or temporary disablement benefit.—Sickness benefit or disablement benefit for temporary disablement may

be suspended, if a person who is in receipt of such benefit fails to comply with any of the requirements of section 64 of the Act, and such suspension shall be for such number of days as may be decided by the authority authorised by the Director General in this behalf.

100. Relaxation.—The Director General may by special or general order relax any regulation under such circumstances and subject to such conditions, as he may deem fit.

101. Appointment of sick visitors.—The Corporation may appoint sick visitors for the purpose of visiting insured persons who are sick or who are or may become entitled to sickness, maternity or disablement benefit:

Provided that a female insured person shall not be visited otherwise than by a woman.

102. Certain officers to have powers of inspection.—The Director General, the Insurance Commissioner, a Deputy Insurance Commissioner, a Regional Director, a Deputy Regional Director, an Insurance Officer and an Assistant Insurance Commissioner shall have all the powers of an Inspector specified in sub-section (2) of section 45 of the Act. In addition to the officers mentioned above, the Director General may, by a written order confer upon any employee of the Corporation or any Government officer the powers of an Inspector for such period or periods as he may think fit.

ⁿ[**102-A. Inspection Book.**—(i) Every principal employer shall maintain a bound inspection book and shall be responsible for its production, on demand by an Inspector or any other officer of the Corporation duly authorised to exercise the powers of an Inspector irrespective of the fact whether the principal employer is present in the factory or not during the inspection.

(ii) A note of all irregularities and illegalities discovered at the time of inspection indicating therein the action, if any, proposed to be taken against the principal employer together with the orders for their remedy or removal passed by an Inspector or any other officer of the Corporation duly authorised to exercise the powers of an Inspector, shall be sent to the principal employer who shall enter the note and orders in the inspection book.

(iii) Every principal employer shall preserve the inspection book maintained under this regulation after it is filled for a period of 5 years from the date of the last entry therein.]

103. Medical benefit during disablement.—A person who is in receipt of disablement benefit shall be entitled to medical benefit while he is in receipt of such benefit:

Provided that after the disablement has been declared as a permanent disablement, the person shall not be entitled to medical benefit, if he

ⁿAdded by Notification No. CO. 12(1)54, d/- 15-11-54; vide Gazette of India, d/- 27-11-54, Pt. IV, p. 137.

is not otherwise entitled to such benefit, except in respect of any medical treatment which may be rendered necessary on account of the employment injury from which the disablement resulted.

²[103-A. *Medical benefit after contribution ceases to be payable.*—

(1) A person in respect of whom contribution has ceased to be payable under the Act during a contribution period, shall be entitled to medical benefit, for a period of 13 weeks following the week for which contributions in respect of him were last payable:

Provided that where an insured person has paid not less than 12 weekly contributions in a contribution period, he shall be entitled to medical benefit till the end of the corresponding benefit period.

(2) An insured person whose title to medical benefit has ceased under sub-regulation (1) shall again be entitled to medical benefit from the date of his re-employment as an employee under the Act in a factory, to which the Act applies, if he produces a certificate from the employer in the form which may be specified by the Director-General for the purpose.

(3) An employer shall, on demand, issue the certificate referred to in sub-regulation (2) to an employee who has been employed by him after cessation of his previous insurable employment.]

104. Production of document for medical benefit.—A person intending to claim medical benefit, and who is otherwise entitled to such benefit, shall produce his Identity Card or such other document as may have been issued in lieu thereof at the time of claiming such benefit if demanded by the Insurance Medical Officer and if he fails to do so medical benefit may be refused to him.

105. Further certificates.—Where any question arises as to the correctness of any certificate by virtue of which an insured person claims, or is entitled to, any benefit under the Act, he shall, on receipt of not less than three clear days' notice in writing given by the appropriate office submit himself, with a view to obtaining a further certificate, to medical examination by such medical authority as the Corporation may appoint in this behalf. If there is any difference between the certificate so obtained and the original certificate, the right to benefit may be determined as if the original certificate agreed with the further certificate.

106. Change of circumstances to be notified.—Every person to whom any benefit is payable under the Act shall, as soon as may be practicable, notify the appropriate office of any change of circumstances which he may be expected to know and which might affect the continuance of his right to receipt of such benefit.

²Inserted by Notification No. CO-12(13)/51, d/- 18-12-53, pub. in Gazette of India, d/- 26-12-53, Pt. IV, p. 135.

FORM 1.

(Regulations 11 & 12.)

DECLARATION FORM.

(Set _____)

Serial No.
in return
in Form 3 _____

Insurance No.

--

Employer's Code No.

--	--	--

1. Name _____
(In block capitals)


2. Caste _____ 3. Sex _____

4. Marital Status _____
(State whether bachelor, spinster, married,
widow or widower)5. Father's Name _____
orHusband's Name _____
(For married women only)6. (a) Age _____ Years.
(b) Year of birth _____

7. Present residential address (in full) _____

8. Permanent home address (in full) _____

9. Dispensary _____ to Local Office _____

(State the names of dispensary and local office to which the employee
wishes to be attached).

 Photograph of
the insured
person.

CUT HERE

TEMPORARY IDENTIFICATION CERTIFICATE

Dispensary _____ Local Office _____
Full Name _____ Age _____ YearsSignature of Manager
or other Officer of

Name

the Employer _____

Address

Designation _____

and

Date _____

Code No. _____

I hereby nominate _____
S/W/D of _____ of _____(Address)
to receive payment under Section 71 of any benefit that may be due to me at the
time of my death.

I affirm that I have NOT been previously insured under the Act and no Identity Card has been issued to me.

I hereby declare that the above particulars have been given by me and are correct to the best of my knowledge and belief.

Place _____
Date _____

Signature or thumb impression of the employee.
Department of Factory _____
Shift No, if any _____
Countersigned _____
Designation _____

Signature of Assistant,
if any, who filled
the form.

Name, Address and Code No. of employer _____

CUT HERE

Receipt for Identity Card

Received Identity Card: Insurance No. _____

--	--

Date _____

Signature or thumb impression of the insured person.

FORM 2

(Regulation 13).

CONTRIBUTION CARD.

Insurance No. _____

	Distinguishing No. by the employer, if any _____	allotted
	Department _____	
	Shift, if any _____	

Employer's Code No. _____ Occupation _____

Name _____ Sex _____

Father's/Husband's Name _____

Warning.—Any person who removes a stamp from this Card or makes use of a stamp removed from a Card is liable to prosecution.

Summary of Stamps affixed/or contribution paid.

Group.	Value of each stamp.	No. of Stamps.	Total value of stamps (2)×(3)	Assumed average wage for the group.	Total assumed wage (3)×(5).
(1)	(2)	(3)	(4)	(5)	(6)
1.	—	⁹ [Nil]		0 14 0	
2.	—	0 2 0		1 4 0	
3.	—	0 4 0		1 12 0	
4.	—	0 6 0		2 8 0	
5.	—	0 8 0		3 8 0	
6.	—	0 11 0		5 0 0	
7.	—	0 15 0		7 0 0	
8.	—	1 4 0]		10 0 0	
Total					

Checked and found correct.*

Signature of Employer
or
his assistant

Regional Office

*Not to be entered by the employer.

FORM 3.

(Regulation 14).

RETURN OF DECLARATION FORMS.

Name and address of the
Factory or Establishment

Employer's Code Number

I send herewith the Declaration Forms in respect of the employees mentioned below. I hereby declare that every person employed as an employee within the meaning of section 2(9) of the Employees' State Insurance Act, 1948, on _____ in this factory or establishment and in receipt of a remuneration not exceeding Rs. 400 per month has been included in this list (excepting only those in respect of whom declarations have been sent to the Corporation in the past).

Place _____
Date _____Signature _____
Designation _____

⁹Subs. for former figures in col. 2, viz. "0-7-0", "0-9-0", "0-12-0", "1-2-0", "1-8-0", "2-1-0", "2-13-0", "3-12-0" by Notification No. RS/21/51, d/- 26-8-52, pub. in Gazette of India, d/- 6-9-52, Pt. IV, p. 115.

Serial No.	Name of the employee.	Distinguishing No. with the employer, if any.	Father's or Husband's name.	Insurance No. allotted by the Corporation (to be entered at the Regional Office).
(1)	(2)	(3)	(4)	(5)

Signature _____
Designation _____

Enclosures.—

Declaration Forms _____

Continuation Sheets _____

FORM 4
(Regulation 17).
IDENTITY CARD.

Insurance No.

--	--

Name _____	Sex _____	Photograph of the insured person			
S/O—D/O _____					
W/O _____					
Year of birth _____					
Address _____		Employment Changes			
		Date	Code No.	Date	Code No.
Dispensary _____					
Local Office _____					
Prepared by _____	Signature or thumb impression of the employee.				

FORM 5
(Regulation 22).

RECEIPT FOR CONTRIBUTION CARD.

Book No.

Receipt No.

Employer's Name

Code No.

Particulars of Card retained

Name of Employee

Insurance No.

Contribution period from

to

Particulars of values of stamps affixed and dates of cancellation.

Weeks and Dates.				Total No. of Stamps.
				Total value of Stamps.
				Date

Signature of Inspector or
Authorised Official.

In duplicate

FORM 6.
(Regulation 26).

RETURN OF CONTRIBUTION CARDS.

1. Name and address of the
Factory or Establishment

2. Employer's Code Number

I send herewith Contribution Cards in respect of the undermentioned insured persons. I hereby declare that this return includes every employee to whom the contribution period to which this return relates, applies and that the Cards have been correctly stamped.

Contribution shown on the cards have actually been paid in accordance with the provisions of the Act and the regulations relating to the payment of contributions and affixing stamps.

Place

Date

Signature

Designation

Serial No.	1[* * *]	Insurance Number.	2[*] Paid Contributions shown on Cards.	
			No.	Value.

Signature

¹ [*The total number of token stamps affixed shall be included in the sub-column under the heading "No".]

² [* * * *]

³ Column headed 'Name of the Insured Person' omitted by Notification No. CO. 12(1)54, d/- 15-11-54; vide Gazette of India, d/- 27-11-54, Pt. IV, p. 137.

⁴ Inserted by Notification No. RS/21/51, d/- 26-8-52, pub. in Gazette of India, d/- 6-9-52, Pt. IV, p. 115.

⁵ Form 7 omitted by Notification No. CO. 12(1)54, d/- 15-11-54; vide Gazette of India, d/- 27-11-54, Pt. IV, p. 137.

CONFIDENTIAL

Stamp of the
dispensary.

*FORM 8.

(Regulation 57).

FIRST CERTIFICATE.

Book No. _____

Serial No. _____

Insurance No. _____

To _____

I hereby certify that I have examined you to-day and that in my opinion you now need medical treatment and attendance and abstinence from work on medical grounds by reason of _____

*In my opinion you will be fit to resume work tomorrow/on**
Date _____

Signature
Insurance Medical Officer

(Rubber stamp or name
in block letters).

Any other remarks by the Medical Officer _____

*Delete if not applicable.

**The day to be indicated must in no case be later than the third day after the date of the examination.] _____

FORM 9.

CONFIDENTIAL

(Regulation 58).

FINAL CERTIFICATE.

Book No. _____

Serial No. _____

Stamp of the
dispensary.

To _____ Insurance No. _____

Date of first certificate of spell of sickness or disablement _____

I certify that I have examined you to-day and that in my opinion you have continued to need medical treatment and attendance and abstinence from work on medical grounds up-to and including this day by reason of _____

Cause group No. _____

*Subs. for original Form 8 by Notification No. CO-12(13)/51, d/- 18-12-53, pub. in Gazette of India, d/- 26-12-53, Pt. IV, p. 135.

In my opinion you will be fit to resume work to-morrow/on _____
 Date _____

Signature _____
 Insurance Medical Officer.

(Rubber stamp or name
 in block letters.)

CONFIDENTIAL

FORM 10.

(Regulation 59).

INTERMEDIATE CERTIFICATE.

Book No. _____
 Serial No. _____
 To _____

Stamp of the
 dispensary.

Insurance No. _____

Date of First Certificate of spell of sickness or disablement _____

I certify that I have examined you to-day and that in my opinion you have
 continued to need medical treatment and attendance and abstinence from work
 on medical grounds, up-to and including this day by reason of _____
 Date _____

Signature _____
 Insurance Medical Officer.

Rubber stamp or name
 in block letters).

Any other remarks by the Medical Officer _____

CONFIDENTIAL

FORM 11.

(Regulation 61).

SPECIAL INTERMEDIATE CERTIFICATE.

Book No. _____
 Serial No. _____

Stamp of the
 dispensary.

To _____ Insurance No. _____

Date of the first certificate of spell of sickness or disablement _____

I certify that I have examined you to-day and that in my opinion you have continued to need medical treatment and have remained incapable of work up-to and including this day by reason of _____

I further certify that, judging from your present condition your incapacity ["sickness"] is of such a character that it will be unnecessary to see you for the purpose of treatment more frequently than once in _____ weeks, and you will require medical treatment and will remain incapable of work at least up to the end of _____ weeks from this date.

I propose to issue certificates in this form at the intervals stated above so long as your condition does not require more frequent attendance.

should now

In my opinion you* _____ be referred to a Medical Board to

need not yet

determine if you are permanently disabled.

Dated _____

Signature _____
Insurance Medical Officer.

(Rubber stamp or name
in block letters).

Any other remarks by the Medical Officer _____

* Strike off that which is not necessary.

FORM 12

(Regulation 63).

SICKNESS OR TEMPORARY DISABLEMENT BENEFIT. CLAIM FOR BENEFIT.

I _____ s/w/d of _____

Insurance No. _____

--	--

hereby state that

I was certified sick/temporarily disabled from _____
A.M./P.M. on the _____ day of _____ 19____, and I have not
been at work since _____ A.M./P.M. on the _____
day of _____ 19____.

I claim benefit accordingly.

Present

_____ employer _____ Department _____

Last

Occupation _____ Shift, if any _____

Present Address _____

Date _____

Signature or thumb impression _____

Accident cases only.

Date, time and place of accident _____

If a notice of the accident has NOT been given to the employer, state briefly on a separate paper how the accident happened.

Date _____

Signature or thumb impression _____

*Subs. for "(injury)" by *ibid.*

IMPORTANT:—

1. Any person who makes a false statement or representation for the purpose of obtaining benefit whether for himself or for some other person renders himself liable to prosecution.
2. This form should be completed and sent *WITHOUT DELAY* to the appropriate Local Office.
3. Before resuming work a Final Certificate must be obtained.

FORM 13

(Regulation 63).

**SICKNESS OR TEMPORARY DISABLEMENT BENEFIT.
CLAIM FOR BENEFIT.**

I _____ s/w/d of _____

Insurance No. _____

declare that,

because of sickness/temporary disablement, I have not been at work since the date of the last certificate sent to you.

I claim benefit accordingly.

Date _____

Signature or thumb impression.

Present Address _____

IMPORTANT:—

1. This form should be completed and sent *WITHOUT DELAY* to the appropriate Local Office.
2. The insured person should obtain a Final Certificate before resuming work.
3. Any person who makes a false statement or representation for the purpose of obtaining benefit whether for himself or for some other person renders himself liable to prosecution.

FORM 14

(Regulation 63).

SICKNESS OR TEMPORARY DISABLEMENT BENEFIT.

I _____ s/w/d of _____

Insurance No. _____

declare that, because of sickness/temporary

disablement, I have not been at work since the date of the last certificate sent to you.

I no longer claim to be sick/temporarily disabled from _____ day of

_____, 19____; and I _____ shall not take up any work for remuneration

before that day. I claim benefit accordingly.

Date _____

Signature or thumb impression.

Present Address _____

IMPORTANT:—Any person who makes a false statement or representation for the purpose of obtaining benefit whether for himself or for some other person renders himself liable to prosecution.

FORM 16.

(Regulation 68).

ACCIDENT REPORT FROM EMPLOYER.

1. Name of employer.

2. Employer's Code No.

--	--	--

3. Address of premises where accident happened.

4. Nature of Industry.

5. Department, Shift (if any) and exact place where the accident happened.

6. Name of the injured person.

7. Insurance No.

--	--	--

8. Address of the injured person.

9. (a) Sex, (b) Age (last birthday),

(c) Occupation of injured person.

(a) (b) (c)

10. Date and hour of accident.

11. Hour at which he started work on day of accident.

12. Cause of accident—

(a) If caused by machinery—

(i) Give name of the machine and part causing the accident, and

(ii) State whether it was moved by mechanical power at that time.

(b) State exactly what the injured person was doing at that time.

(c) In your opinion, was the injury due to an accident directly attributable to:—

(i) the injured person having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the injured person to an order expressly given, or to a rule expressly framed for the purpose of securing the safety of employees, or

(iii) the wilful removal or disregard by the injured person of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of the employees.

(d) Describe briefly how the accident occurred.

13. (a) Nature and extent of injury (e.g., fatal, loss of finger, fracture of leg, scald, etc.).

(b) Location of injury (right leg, left hand or left eye, etc.).

(c) (i) If the accident is not fatal, state whether the injured person has returned to work.

(ii) If so, date and hour of return to work.

14. Physician, dispensary or hospital from whom or where the injured person received or is receiving treatment.

15. (i) Has injured person died (i)

(ii) If so, date of death. (ii)

I certify that to the best of my knowledge and belief the above particulars are correct in every respect.

Date of despatch of report.

Signature _____

Designation _____

Employer's Name _____

Address and _____

Code No. _____

FORM 17.

(Regulation 79).

DEPENDANTS' BENEFIT.
DEATH CERTIFICATE.

Book No. _____

Serial No. _____

Stamp of the
Dispensary.

Name of the deceased insured person _____

s/w/d of _____ Insurance No. _____

I certify that in my opinion the abovenamed deceased insured person died on the _____ day of _____ 19_____, as a result of an injury. I* had been attending him/her for providing medical benefit before his/her death and I attended him/her for the last time on the _____ day of _____ 19_____.

Date _____

Signature _____
Insurance Medical Officer.

(Rubber Stamp or name in block letters).

Any other remarks by the Medical Officer.

*The language may be suitably amended if the Insurance Medical Officer had not attended the deceased person before _____ his death.
_____ her

FORM 18.

(Regulation 80).

DEPENDANTS' BENEFITS.
CLAIM FORM.

Name of the deceased insured person _____

s/w/d of _____ Insurance No. _____

Date of death _____

Last employed _____

I/we the following, being dependants of the abovenamed deceased insured
 person, apply for dependants' benefit in respect of ^{his} death.
 her

Name of the dependant	Sex	Age or year of birth	Marital Status	Relationship with the deceased	Name of the guardian in case of a minor

So far as I/we know the following are the only other dependants who may be entitled to Dependants' Benefit in respect of the death of the abovenamed insured person.

Name of the dependant	Sex	Age or year of birth	Marital Status	Relationship with the deceased	Name of the guardian in case of a minor

I/we declare that the particulars given above are true to the best of my/our knowledge and belief.

Signatures

Present Address.

1. _____
2. _____
3. _____
4. _____

IMPORTANT.—Any person who makes a false statement or representation for the purpose of obtaining benefit whether for himself or for some other person renders himself liable to prosecution.

FORM 19.

(Regulation 87).

MATERNITY BENEFIT.
NOTICE OF PREGNANCY.

I _____

Insurance No.

--	--

wife of _____ hereby give notice of pregnancy.

daughter of _____

Present Address _____

Present _____

Last _____

Date _____

Signature or thumb impression.

FORM 20.

CONFIDENTIAL

(Regulation 87).

MATERNITY BENEFIT.
CERTIFICATE OF PREGNANCY.Book No. _____
Serial No. _____Stamp of the
Dispensary.

To _____ Insurance No. _____

I certify that I have examined you to-day and that in my opinion you are pregnant, and your pregnancy appears to be _____ weeks old.

Signature of midwife, if any.
|Signature or countersignature of
Insurance Medical Officer.

Date _____

(Rubber stamp or name
in block letters).

CONFIDENTIAL

FORM 21.
(Regulation 88).
MATERNITY BENEFIT.
CERTIFICATE OF EXPECTED CONFINEMENT.

Book No. _____

Serial No. _____

Stamp of the
Dispensary.

To _____ Insurance No. _____

I certify that I have examined you to-day and that in my opinion you may expect to be confined in the week commencing _____*

Date _____

Signature of midwife, if any. _____

Signature or Countersignature of Insurance Medical Officer. _____

(Rubber stamp or name
in block letters).

Any other remarks—

* This date should not be more than 30 days later than the date of examination.

FORM 22.
(Regulations 88 & 89).
MATERNITY BENEFIT.
CLAIM FORM.

I _____ Insurance No. _____

wife of _____

_____ hereby claim maternity benefit with effect from
daughter of _____
the _____ day of _____ 19 _____. I hereby declare
that I have ceased/shall cease to work for remuneration with effect from that date.

Present/last employer _____

Department, shift and occupation _____

Present address _____

Date _____

Signature or thumb impression. _____

IMPORTANT:—

1. No work for remuneration should be taken up during the period for which maternity benefit is being or is to be claimed. Notice of resumption of work in Form No. 24 must be sent before any work is taken up.
2. Any person who makes a false statement or representation for the purpose of obtaining benefit whether for one-self or for some other person renders one-self liable to prosecution.

CONFIDENTIAL

FORM 23.

(Regulations 88 & 89).

MATERNITY BENEFIT.

CERTIFICATE OF CONFINEMENT.

Book No. _____

Serial No. _____

Stamp of the
dispensary.

I certify that I attended _____

Insurance No. _____

in connection with her

confinement at _____ (address) and that she was there delivered of a child
on the _____ day of _____ 19 _____*The confinement was premature and the week in which it was expected that
she would be confined was the week commencing _____
Date _____

Signature of midwife, if any.

Signature or Countersignature of Insurance
Medical Officer.(Rubber stamp or name in
block letters).

Any other remarks _____

* To be struck off unless applicable.

FORM 24.

(Regulation 91.)

MATERNITY BENEFIT.

NOTICE OF WORK

I _____ Insurance No. _____

wife of _____

do hereby give notice that I have

daughter of _____
taken/shall take up work for remuneration with effect from the _____
day of _____ 19 _____ I have drawn maternity benefit only upto
the _____ day of _____ 19 _____
Date _____

Present address _____ Signature or thumb impression.

THE EMPLOYEES' STATE INSURANCE REGULATIONS (TEMPORARY AMENDMENTS) ORDER, 1951¹.

1. *Short title and commencement.*—(1) This Order may be called the Employees' State Insurance Regulations (Temporary Amendments) Order, 1951.

(2) It shall come into force on the 24th February 1952 and shall remain in force only so long as Chapter V-A of the Act is in force.

2. *Definitions.*—In this Order, 'Act' means the Employees' State Insurance Act, 1948 (XXXIV of 1948).

3. *Temporary amendments of regulations.*—So long as the provisions of Chapter V-A of the Act are in force the Employees' State Insurance (General) Regulations, 1950, shall have effect subject to the following modifications, namely:

(1) To clause (f) in regulation 2, the following shall be added, namely:—

"and shall include for the purpose of these regulations a token stamp issued to indicate that a contribution would have been payable in respect of an exempted employee if the provisions of Chapter V-A were not in force"

(2) to Regulation 29, the following proviso shall be added, namely:—

"Provided that in the case of an exempted employee in respect of whom contribution would have been payable if the provisions of Chapter V-A of the Act had not been in force, the fact that such contribution would have been so payable shall be indicated by affixing a token stamp on the contribution card of that employee in the space provided for the purpose".

(3) to Regulation 31, the following proviso shall be added, namely:—

"Provided that, in the case of an exempted employee the token stamp in respect of any week shall be affixed within such time as the contribution in respect of that week would have been payable if the provisions of Chapter V-A had not been in force".

(4) for Regulation 35, the following regulations shall be substituted, namely:—

"35. *Reasons for non-payment of contributions.*—Where no contribution is payable or in the case of an exempted employee, so long as Chapter V-A is in force, where no token stamp is affixed in respect of a week or weeks in any contribution period, the reason for non-payment or non-affixation shall be clearly indicated in writing in the space provided for affixing stamps for recording contributions".

¹See Notification No. S. R. O. 252 d/- 1-2-52; pub. in Gazette of India d/- 9-2-52, Pt. II-Sec. 3, pp. 271-272.

(5) In form 2, in the tabular statement under the heading "summary of stamps affixed/or contribution paid", in column (2) for the figures "0-7-0", "0-9-0", "0-12-0", "1-2-0", "1-8-0", "2-1-0", "2-13-0", "3-12-0", the words and figures "Nil", "0-2-0", "0-4-0", "0-6-0", "0-8-0", "0-11-0", "0-15-0", "1-4-0" shall respectively be substituted.

(6) In Form 6, in the heading in column 4 of the table, an asterisk shall be inserted over the words "paid contributions" and the following shall be added at the end of the Form, namely:—

"the total number of token stamps affixed shall be included in this sub-column under the heading 'number'".

RATE OF EMPLOYER'S SPECIAL CONTRIBUTION¹.

In pursuance of the powers conferred by sub-section (3) of section 73A of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby fixes the employers' special contribution with effect from the 24th day of February 1952, as follows:—

(i) the rate of employer's special contribution in the case of factories or establishments situated in an area in which the provisions of both chapters IV and V are in force shall be $1\frac{1}{2}$ per cent. of the total wage bill of the employer.

(ii) the rate of employer's special contribution in the case of factories or establishments situated in an area in which the provisions of the said chapters are not in force shall be $\frac{1}{2}$ per cent. of the total wage bill of the employer.

PAYMENT OF EMPLOYERS' SPECIAL CONTRIBUTION^{1a}.

1. The employers' special contribution shall be payable in respect of each quarter ending on 31st March, 30th June, 30th September and 31st December as the case may be.

2. ²[1] The total wage bill of an employer in respect of a quarter means the total wages which have accrued due to employees in his factory or establishment in respect of all wage periods the last day of which falls in such quarter:

Provided that in the case of the first quarter which ends after the 24th February 1952 the wage periods which ended before such date shall be excluded.

¹See Ministry of Labour Notification No. S. R. O. 253, dated 1st February, 1952, pub. in Gazette of India, dated February 9, 1952, Pt. II—Sec. 3, p. 272.

^{1a}See Notification No. S. R. O. 270, d/- 6-2-52, pub. in Gazette of India, d/- 16-2-52, Pt. II—Sec. 3, pp. 279-284.

²Para. 2 made sub-para. (1) of that para and new sub-para. (2) added by Notification No. S. R. O. 1189 d/- 16-6-53, vide Gazette of India, d/- 20-6-53, Pt. II—Sec. 3, p. 908.

²[Provided further that in the case of a wage period commencing before and ending on or after the 24th February, 1952 the amount to be included in the total wage bill shall be such amount as bears to the wages for such wage period the same proportion which the number of days included in the period from the 24th February, 1952, to the last day of such wage period, (both days inclusive) bears to the total number of days in such wage period.]

²[(2) When the rate of employer's special contribution payable in respect of a factory or establishment varies, the altered rate shall apply to the wage bill in respect of any quarter or to any portion of that wage bill if such wage bill or such portion thereof relates to wage periods ending on or after the date on and from which the rate varies:

Provided that in the case of a wage period commencing before and ending on or after such date, the amount to be included in the wage bill to which the altered rate shall apply, shall be an amount which bears to the wages for such wage period the same proportion as the number of days included in the wage period from such date to the last date of such wage period (both days inclusive) bears to the total number of days in such wage period.]

3. The principal employer shall pay to the Corporation the Employer's special contribution within thirty days from the last day of the quarter in respect of which such contribution is payable:

Provided that the amount payable shall be rounded off to the nearest rupee, fractions of a rupee below eight annas being ignored and those of or above eight annas being reckoned as a full rupee.

4. The employers' special contribution shall be paid to the Account of the Employees' State Insurance Fund with such branch or branches of the Imperial Bank of India or such other Bank, as may be specified for any area by the Director General of Employees' State Insurance (hereinafter referred to as the Director General), or as may be agreed to by the Director-General in respect of any factory or establishment.

5. The payment referred to in clause 4 may be made either by tender of cash or by cheque drawn on a bank referred to in that clause or on any scheduled bank or any other bank which has a clearing account with a scheduled bank or the Reserve Bank of India:

Provided that where the payment is made by cheque the collection charges, if any, of the bank shall be included in the amount of the cheque over and above the amount sought to be paid.

Explanation.—A cheque bearing a date later than the date of deposit shall not be accepted.

6. The principal employer shall, at the time he tenders payment to the Bank, also furnish to the bank a duly completed challan in triplicate

²See fn. 2 at p. 400 *Supra*.

²Inserted by Notification No. S. R. O. 965, d/- 21-5-52, *vide* Gazette of India, d/- 31-5-52, Pt. II—Sec. 3, p. 869.

in Form S-I or S-II, as the case may be. The bank shall in token of having received the amount—

(a) where the payment is made in cash, return forthwith to the payer one copy of the challan duly countersigned, and

(b) where the payment is made by means of a cheque, return to the payer one copy of the challan duly countersigned as soon as the cheque has been realized, showing also on the challan the net amount credited to the Fund after deduction of the collection charges, if any.

7. Where a principal employer pays the said contribution by a cheque, the corresponding amount shall not be deemed to have been paid until the cheque has been realized and the amount credited to the account of the said Fund in any bank referred to in clause 4.

8. (i) Any principal employer who has paid any amount in excess of the employer's special contributions due from him for any quarter, may apply in writing to the Corporation within twelve months of the date of such payment, for refund of the excess amount paid by him furnishing full details as to the employers' special contributions that have actually fallen due in respect of the quarter and the amounts which he has actually paid in respect thereof.

(ii) Subject to the production of such evidence by way of affidavit or otherwise as the Director General or any officer of the Corporation authorised by him in this behalf may require, the amount of such excess as may be admissible, shall be refunded without any interest to the Principal employer.

EMPLOYEES' STATE INSURANCE FUND—ACCOUNT NO. 1

PAY-IN SLIP
FOR NOTES & COIN ONLY.

Ledger Folio

Particulars

Notes	.	.	.
Rupees	.	.	.
Small Coins	.	.	.
Copper	.	.	.
			Rs.

Paid in the CREDIT of Employees' State Insurance Fund—Account No. 1,
Rupees

on account of employer's special contribution payable for the quarter from
to
under Chapter V-A of the Employees' State Insurance Act, 1948.

On behalf of (name of employer)

Employer's Code No.

Address

By

Depositor.

Teller

Head Cashier

Scroll Cash No. Paid, by

(Reverse)
PARTICULARS OF NOTES

Denomination of Notes	Number	Amount		

(Overseas)

IMPERIAL BANK OF INDIA.

EMPLOYEES' STATE INSURANCE FUND—Account No. 1

PAY-IN SLIP
FOR CHEQUES

Ledger Folio _____

19 _____

Paid in to the CREDIT of the Employees' State Insurance Fund—Account No. 1
Rupees _____on realisation as per particulars overleaf on account of employer's special contribution payable for the
quarter from _____ to _____

under Chapter V-A of the Employees' State Insurance Act, 1948.

TO BE FILLED IN BY THE BANK.

Date when cheque received	Rs.	As.
Amount of cheque		
Collection charges, if any.		
Net amount credited		
Passing official _____		
Scrawl Transfer. _____		

On behalf of _____ (name of employer)

Employer's Code No. _____

Address _____

Depositor. _____

(Reverse)

FORM No. S-II

PARTICULARS.

Cheque number etc.	Amount.		
	Rs.	As.	

THE EMPLOYEES' STATE INSURANCE CORPORATION (PROVIDENT FUND) REGULATIONS, 1951.

1. *Short title.*—These Regulations may be called the Employees' State Insurance Corporation (Provident Fund) Regulations, 1951.

2. *Constitution.*—A Fund shall be created called "The Employees' State Insurance Corporation Provident Fund" hereinafter referred to as the "Provident Fund".

3. *Administration.*—(a) The Provident Fund shall be held by the Corporation and shall be administered by the Standing Committee through an Administration Committee consisting of:—

(i) A Chairman and any other member nominated by the Standing Committee from time to time.

(ii) The Director General and the Chief Accounts Officer, who shall be ex-officio member of the Administration Committee.

(iii) Two representatives of the staff of the Corporation to be nominated by the Director General from time to time.

(b) The Director General may appoint an officer of the Corporation to act as Secretary to the Administration Committee.

4. *Meetings of the Administration Committee.*—At every meeting of the Administration Committee the Chairman or in his absence, any other member elected from among those present shall preside. The presence of at least three members of the Administration Committee shall be necessary to form a quorum for transaction of business. Each member shall have one vote and in case of equality of votes the Chairman shall have an additional casting vote.

5. *Annual Accounts.*—The accounts of the Provident Fund shall be made yearly as at the 31st March and an audited statement of the accounts as at that date shall be submitted to the Standing Committee, after adoption, by a meeting of the Administration Committee, to be held not later than, the 31st August every year, and a copy of such statement shall be made available for inspection by subscribers at each office of the Corporation as soon as may be practicable after it has been submitted to the Standing Committee.

6. *Membership.*—(i) The Principal Officers who are entitled to the benefits of Provident Fund under the Employees' State Insurance (Central) Rules, 1950, or under their terms of appointment shall subscribe to the Provident Fund.

(ii) Every permanent employee of the Corporation who is in receipt of a pay of not less than rupees thirty per mensem shall subscribe to the Provident Fund. A permanent employee in receipt of a pay of less than rupees thirty per mensem may subscribe to the Provident Fund if he so desires.

(iii) An employee appointed on probation to a permanent post shall be deemed to be a permanent employee for the purpose of these regulations from the date of his first appointment.

(iv) A temporary employee and any other person in receipt of remuneration other than casual remuneration from the Corporation may subscribe to the Provident Fund, if he so desires and shall do so, if so required by a resolution of the Standing Committee.

(v) Employees appointed on contract for a period exceeding two years shall also subscribe to the Provident Fund.

7. Employees' Subscription.—(1) Every subscriber shall subscribe monthly to the Provident Fund when on duty.

(2) A subscriber may at his option, not subscribe during leave.

(3) The subscriber shall intimate his election not to subscribe during leave in the following manner:—

(a) If he is an officer who draws his own pay bills, by making no deduction on account of the subscription in his first pay bill drawn after proceeding on leave.

(b) If he is not an officer who draws his own pay bills, by written communication to the Head of his office before he proceeds on leave.

Failure to make due and timely intimation shall be deemed to constitute an election to subscribe.

The option of a subscriber intimated under this sub-regulation shall be final.

8. (1) The amount of subscription shall be fixed by the subscriber himself subject to the following conditions:—

(a) It shall be expressed in whole rupees.

(b) It may be any sum so expressed, not less than 6½ per cent. of his pay (i.e. one anna in the rupee) and not more than such proportion, if any, of his pay as may be laid down by the Standing Committee.

(2) For the purpose of sub-regulation (1) the pay of a subscriber shall be—

(a) In the case of a subscriber who was in the service of the Corporation on the 31st March preceding, the pay to which he was entitled on that date; provided as follows:—

(i) If the subscriber was on leave on the said date and elected not to subscribe during such leave or was under suspension on the said date, his pay shall be the pay to which he was entitled on the first day after his return to duty;

(ii) if the subscriber joined the Provident Fund for the first time on a day subsequent to the said date, his pay shall be the pay to which he was entitled on such subsequent date;

(b) In the case of a subscriber who was not in the service of the Corporation on the 31st March preceding, the pay to which he was entitled on the first day of his service, or if he joined the Provident

Fund for the first time on a date subsequent to the first day of his service, the pay to which he was entitled on such subsequent date;

Provided that if the pay of subscriber is of a fluctuating nature, it shall be calculated in such manner as the Director General may direct.

(3) The subscriber shall intimate the fixation of the amount of his monthly subscription in each year in the following manner:—

(a) If he is an officer who draws his own pay bills—

(i) if he was on duty on the 31st March preceding, by the deduction which he makes in this behalf from his pay bill for that month;

(ii) if he was on leave on the 31st March preceding and elected not to subscribe during said leave or was under suspension on that date, by the deduction which he makes in this behalf from his first pay bill after his return to duty;

(iii) if he has entered the service of the Corporation for the first time or joins the Provident Fund for the first time, after the 31st March preceding, by the deduction which he makes in this behalf from his pay bill for the month during which he joins the Provident Fund.

(b) If he is not an officer who draws his own pay bills, by written communication to the Head of his office in the month of March preceding or in the month in which he joins the service of the Corporation or joins the Provident Fund, as the case may be.

(4) The amount of the subscription so fixed shall remain unchanged throughout the financial year. Provided that, if a subscriber is on duty for a part of a month and on leave for the remainder of that month, and if he has elected not to subscribe during leave, the amount of the subscription payable shall be proportionable to the number of days spent on duty, in the month.

9. *Corporation's contribution.*—(i) The Corporation shall at the close of each financial year pay contributions in respect of subscribers entitled to such contributions.

(ii) The subscribers who are required to subscribe under clauses (i), (ii), (iii) and (v) of regulation 6 shall be entitled to the contributions by the Corporation.

(iii) In the case of temporary employee subscribing under clause (iv) of regulation 6, the Corporation shall make provisional contributions subject to the condition that if the employee's services are terminated for any reason whatsoever within five years of the commencement thereof, the Corporation shall deduct from the amount standing to the credit of the employee all its contributions together with interest thereon.

Provided that no such deduction shall be made if the employee dies within the said period of five years.

(iv) If a subscriber quits service or dies during the financial year the contributions, if any, by the Corporation shall be calculated on

the basis of his pay, drawn during the period from the beginning of the financial year to the date of such quitting or death.

(2) (i) The contribution shall be $6\frac{1}{4}$ per cent. of the subscriber's pay drawn on duty during the financial year or the shorter period, as the case may be.

(ii) Should a subscriber elect to subscribe during leave, his leave pay shall for the purposes of this regulation, be deemed to be pay drawn on duty.

(iii) The amount of contribution payable shall be rounded to the nearest whole rupee (eight annas counting as the nearest higher rupee).

Explanation.—For purposes of this regulation and other regulations, pay shall have the meaning assigned to it in the Employees' State Insurance Corporation (Staff) Regulations, 1951.

10. Interest.—The Corporation shall credit at the end of each financial year interest, on the amount standing to each subscriber's credit, at such rates as may be fixed by the Central Government for the corresponding period in respect of the General Provident Fund, for the benefit of the Central Government servant. The amount of interest to be credited shall be calculated in the manner laid down in the General Provident Fund Rules applicable to Central Government servants.

11. Investment.—All monies belonging to the Provident Fund shall be invested in the manner provided for in the Employees' State Insurance (Central) Rules, 1950, in respect of the monies belonging to the Employees' State Insurance Fund.

12. (1) As soon as possible after 31st March of each year, the Chief Accounts Officer shall send to each subscriber a statement of his account in the Provident Fund showing the opening balance as on the 1st April of the year, the total amount credited or debited during the year, the total amount of interest credited as on the 31st March of the year and the closing balance on that date. The Chief Accounts Officer shall attach to the statement of account an enquiry whether the subscriber

(a) desires to make any alteration in any nomination made under regulation 24,

(b) has acquired a family (in cases where the subscriber has made no nomination in favour of a member of his family under regulation 24).

(2) Subscribers should satisfy themselves as to the correctness of the annual statement, and errors should be brought to the notice of the Chief Accounts Officer within six months from the date of receipt of the statement.

(3) The Chief Accounts Officer shall, if required by a subscriber, once, but not more than once, in a year, inform the subscriber of the total amount standing to his credit in the Provident Fund at the end of the last month for which his account has been written up.

13. *Advances and repayment.*—A temporary advance may be granted to a subscriber from the amount standing to his credit in the Provident Fund at the discretion of the Director General or any other officer authorised in this behalf by the Director General subject to the following conditions.

(a) No advance shall be granted unless the sanctioning authority is satisfied that the subscriber's pecuniary circumstances justify it and that it will be expended on the following object or objects and not otherwise:—

(i) to pay expenses incurred in connection with the prolonged illness of the subscriber or any person actually dependent on him;

(ii) to pay for the overseas passage for reasons of health or education of the subscriber or any person actually dependent on him;

(iii) to pay obligatory expenses on a scale appropriate to the applicant's status in connection with marriages, funerals or ceremonies which by his religion it is incumbent on him to perform.

(b) An advance shall not except for special reasons, exceed three months' pay, and shall in no case exceed the amount of the employee's subscriptions and interest thereon standing to the credit of the subscriber in the Provident Fund.

(c) An advance shall not, except for special reasons, be granted until at least twelve months after the final repayment of all previous advances together with interest thereon, unless the amount already advanced does not exceed two-thirds of the amount admissible under clause (b).

(d) The Sanctioning authority shall record in writing its reasons for granting the advance:

Provided that if the reason is of a confidential nature it may be communicated to the Chief Accounts Officer personally and/or confidentially.

(e) An advance shall be recovered from the subscriber in such number of equal monthly instalments as the Sanctioning authority may direct but such number shall not be less than twelve unless the subscriber so elects, or in any case more than twenty-four. A subscriber may at his option make repayment in a smaller number of instalments than that prescribed. Each instalment shall be a number of whole rupees, the amount of the advance being raised or reduced, if necessary, to admit the fixation of such instalments.

(f) Recoveries shall be made monthly, commencing from the first payment of a full month's salary after the advance is granted. Recovery shall not be made, except with the subscriber's consent, while he is on leave or in receipt of subsistence grant.

(g) If more than one advance has been made to a subscriber, each advance shall be treated separately for the purposes of recovery.

(h) After the principal of the advance has been fully repaid, interest shall be paid thereon at the rate of one-fifth per cent. of the

principal for each month or broken portion of a month during the period between the drawal and complete repayment of the principal.

(i) Interest shall ordinarily be recovered in one instalment in the month after complete repayment of the principal; but if the period referred to in clause (h) exceeds twenty months, interest may, if the subscriber so desires, be recovered in two equal monthly instalments. The method of recovery shall be that provided in sub-regulation (f). Payments shall be rounded to the nearest whole rupee (eight annas counting as the next higher rupee).

(j) If an advance has been granted to a subscriber and drawn by him and the advance is subsequently disallowed before repayment is completed, the whole or balance of the amount withdrawn, shall, with interest at the rate provided for in regulation 10 forthwith be paid by the subscriber to the Provident Fund, or in default, be ordered by the Chief Accounts Officer to be recovered by deduction from the pay of the subscriber by instalments or otherwise as may be directed by the Chief Accounts Officer or any other officer authorised by him in this behalf.

(k) Recoveries made under this regulation shall be credited, as they are made, to the account of the subscriber in the Provident Fund.

14. Subject to the conditions in regulations 15 to 22—

(a) The amount of the employee's subscription with interest thereon standing to the credit of a subscriber in the Provident Fund may be withdrawn to meet:—

(i) payments towards an insurance policy;

(ii) purchase of a single premium insurance policy;

Provided that no amount shall be withdrawn—

(1) before the details of the proposed policy have been submitted to the Chief Accounts Officer and accepted by him as suitable; or

(2) to meet any payment or purchase made or effected more than twelve months before withdrawal; or

(3) in excess of the amount required to meet a premium or subscriptions actually due for payment within six months of the date of withdrawal;

Provided further that no amounts may be withdrawn to meet any payment or purchase in respect of an educational endowment policy if that policy is due for payment in whole or part before the subscriber's age of normal superannuation.

(b) Any amount withdrawn under clause (a) shall be in whole rupees rounded to the nearest whole rupee.

15. If the subscriber withdraws any amount standing to his credit in the Provident Fund for any of the purposes specified in clause (a) of regulation 14 he shall continue to pay to the Provident Fund the subscription payable by him under regulation 7.

16. (1) A subscriber who desires to withdraw any amount under clause (a) of regulation 14 shall

(a) intimate the reason for the withdrawal to the Chief Accounts Officer by letter;

(b) make arrangements with the Chief Accounts Officer for the withdrawal;

(c) send to the Chief Accounts Officer within such period as the Chief Accounts Officer may require, receipts or certified copies of receipts in order to satisfy the Chief Accounts Officer that the amount withdrawn was duly applied for the purpose specified in clause (a) of regulation 14.

(d) The Chief Accounts Officer shall order the recovery of any amount withdrawn in respect of which he has not been satisfied in the manner required by clause (c) of sub-regulation (1) with interest thereon provided for in regulation 10 from the pay of the subscriber and place it to the credit of the subscriber in the Provident Fund.

17. (1) The Corporation will not make any payments on behalf of subscribers to insurance companies, nor take steps to keep a policy alive.

(2) It is immaterial what form the policy takes provided that it shall be one effected by the subscriber himself on his own life and shall (unless it is a policy expressed on the face of it to be for the benefit of his wife, or of his wife and children or any of them) be such as may be legally assigned by the subscriber himself to the Corporation.

Explanation.—(i) A policy on the joint lives of the subscriber and his wife shall be deemed to be a policy on the life of the subscriber himself for the purpose of this sub-regulation.

Explanation.—(ii) A policy which has been assigned to the subscriber's wife shall not be accepted unless either the policy is first re-assigned to the subscriber or the subscriber and his wife both join in an appropriate assignment.

(3) The policy may not be effected for the benefit of any beneficiary other than the wife of the subscriber or his wife and children or any of them.

18. (1) The policy within three months after the first withdrawal from the Provident Fund in respect of the policy or in the case of an Insurance company whose headquarters are outside India, within such further period as the Chief Accounts Officer, if he is satisfied by the production of the competent certificate (interim receipt) may fix, shall—

(a) unless it is a policy expressed on the face of it to be for the benefit of the wife of the subscriber, or of his wife and children or any of them, be assigned to the Corporation as security for the payment of any sum which may become payable to the Provident Fund under regulations 19 to 21 and, delivered to the Chief Accounts Officer, the assignment being made by endorsement on the policy in Form D or Form E or Form F attached to these regulations according as the policy is on the life of the subscriber or on the joint lives of the subscriber and his wife or the policy has previously been assigned to the subscriber's wife;

(b) if it is a policy expressed on the face of it to be for the benefit of the wife of the subscriber or of his wife and children or any of them, be delivered to the Chief Accounts Officer.

(2) The Chief Accounts Officer shall satisfy himself by reference to the insurance company, where possible, that no prior assignment of the policy exists.

(3) Once a policy has been accepted by the Chief Accounts Officer for purposes of being financed from the Provident Fund the terms of the policy shall not be altered nor shall the policy be exchanged for another policy without prior consent of the Chief Accounts Officer to whom the details of the alteration or of the new policy shall be furnished.

(4) If the policy is not assigned and delivered, within the said period of three months or such further period as the Chief Accounts Officer may, under sub-regulation (1) have fixed, any amount withdrawn from the Provident Fund in respect of the policy, shall with interest thereon at the rate provided for in regulation 10, forthwith be paid or repaid as the case may be, by the subscriber to the Provident Fund, or, in default be ordered by the Chief Accounts Officer to be recovered by deduction from the pay of the subscriber by instalments or otherwise as may be directed by the Chief Accounts Officer.

(5) Notice of assignment of the policy shall be given by the subscriber to the insurance company, and the acknowledgment of the notice by the insurance company shall be sent to the Chief Accounts Officer within three months of the date of assignment.

(6) The subscriber shall not during the currency of the policy draw any bonus the drawal of which during such currency is optional under the terms of the policy, and the amount of any bonus which under terms of the policy, the subscriber has no option to refrain from drawing during its currency shall be paid forthwith into the Provident Fund by the subscriber or in default recovered by deduction from his pay by instalments or otherwise as the Chief Accounts Officer directs.

19. (1) Save as provided by sub-regulation (2) of regulation 21, when the subscriber—

(a) quits the service; or

(b) has proceeded on leave preparatory to retirement and applies to the Chief Accounts Officer for re-assignment or return of the policy; or

(c) while on leave has been permitted to retire or declared by competent medical authority to be unfit for further service and applies to the Chief Accounts Officer for re-assignment or return of the policy; or

(d) pays or re-pays to the Provident Fund the whole of any amount withdrawn from the Fund for any of the purposes in sub-clauses (i) and (ii) of clause (a) of regulation 14 with interest thereon at the rate provided for in regulation 10; the Chief Accounts Officer shall—

(i) if the policy has been assigned to the Corporation under regulation 18, re-assign the policy in Form G attached to these regulations to the subscriber or to the subscriber and the joint assured as the case may be, and make it over to the subscriber, together with a signed notice of the re-assignment addressed to the Insurance Company;

(ii) if the policy has been delivered to him under clause (b) of sub-regulation (1) of regulation 18, make over the policy to the subscriber;

Provided that, if the subscriber, after proceeding on leave preparatory to retirement or after being, while on leave, permitted to retire or declared by a competent medical authority to be unfit for further service returns to duty, any policy so re-assigned or made over shall, if it has not matured or been assigned or charged or encumbered to the Chief Accounts Officer as the case may be, again be delivered to the Chief Accounts Officer in the manner provided in regulation 18 and thereupon the provisions of these regulations shall as far as may be, again apply in respect of the policy:

Provided further that, if the policy has matured or been assigned or charged or encumbered in any way, the provisions of sub-regulation (4) of regulation 18 applicable to a failure to assign and deliver a policy shall apply.

(2) Save as provided by sub-regulation (2) of regulation 21, when the subscriber dies before quitting the service, the Chief Accounts Officer shall,

(i) if the policy has been assigned to the Corporation under regulation 18, re-assign the policy in Form H attached to these regulations to such person as may be legally entitled to receive it and shall make over the policy to such person together with a signed notice of re-assignment addressed to the Insurance Company,

(ii) if the policy has been delivered to him under clause (b) of sub-regulation (1) of regulation 18, make over the policy, to the beneficiary, if any, or, if there is no beneficiary, to such person as may be legally entitled to receive it.

20. (1) If a policy assigned to the Corporation under regulation 18 matures before the subscriber quits the service or if a policy on the joint lives of a subscriber and his wife, assigned under the said regulation, falls due for payment by reason of the wife's death, the Chief Accounts Officer shall save as provided by sub-regulation (2) of regulation 21 proceed as follows:—

(i) if the amount assured together with the amount of accrued bonuses is greater than the whole of the amount withdrawn from the Provident Fund in respect of the policy with interest thereon at the rate provided for in regulation 10, the Chief Accounts Officer shall re-assign the Policy in Form I attached to these regulations to the subscriber or to the subscriber and the joint assured as the case may be, and make over to the subscriber, who shall pay or re-pay to the Provident Fund the whole of any amount withdrawn with interest, and

in default, the provisions of sub-regulation (4) of regulation 18 applicable to a failure to assign and deliver the policy, shall apply;

(ii) if the amount assured together with the amount of any accrued bonuses is less than the whole of the amount withdrawn with interest, the Chief Accounts Officer shall realise the amount assured together with any accrued bonuses and shall place the amount so realised to the credit of the subscriber in the Provident Fund.

(2) Save as provided by sub-regulation (2) of regulation 21 if a policy delivered to the Chief Accounts Officer under sub-regulation (1) of regulation 18 matures before the subscriber quits the service, the Chief Accounts Officer shall make over the policy to the subscriber:

Provided that if the interest in the policy of the wife of the subscriber, or of his wife and children or of any of them, as expressed on the face of the policy, expires when the policy matures, the subscriber, if the policy moneys are paid to him by the Insurance Company, shall immediately on receipt thereof pay or re-pay to the Provident Fund either—

(i) the whole of any amount withdrawn from the Provident Fund in respect of the policy with interest thereon at the rate provided for in regulation 10; or

(ii) an amount equal to the amount assured together with any accrued bonuses, whichever is less, and in default, the provisions of sub-regulation (4) of regulation 18 applicable to a failure to assign and deliver the policy, shall apply.

21. (1) If the policy lapses or becomes assigned otherwise than to the Corporation under regulation 18, charged or encumbered, the provisions of sub-regulation (4) of regulation 18 applicable to a failure to assign and deliver the policy shall apply.

(2) If the Chief Accounts Officer receives notice of—

(a) an assignment (other than an assignment to the Corporation under regulation 18); or

(b) a charge or encumbrance on; or

(c) an order of a Court restraining dealings with the policy or any amount realised thereon;

the Chief Accounts Officer shall not—

(i) re-assign or make over the policy as provided in regulation 19; or

(ii) realise the amount assured by the policy or re-assign or make over the policy as provided in regulation 20;

but shall forthwith refer the matter to the Administration Committee.

22. Notwithstanding anything contained in these regulations, if the sanctioning authority is satisfied that money drawn as advance from the Provident Fund under regulation 13 or withdrawn from the Provident Fund under clause (a) of regulation 14 has been utilised for a purpose other than that for which the sanction was given to the drawal or withdrawal of the money, the amount in question, shall with interest at the

rate provided in regulation 10 forthwith be repaid or paid as the case may be, by the subscriber to the Provident Fund or in default, be ordered to be recovered by deduction in one sum from the pay of the subscriber, even if he be on leave. If the total amount to be paid or repaid, as the case may be, be more than half the subscriber's pay, recoveries shall be made in monthly instalments of moieties of his pay till the entire amount recoverable be repaid or paid, as the case may be, by him.

23. Payment of amount standing to the credit of a subscriber.—The sum standing to the credit of a subscriber shall become payable on the termination of his service or on his death:

Provided that the following shall, if the Administration Committee so directs, be deducted therefrom and paid to the Corporation:—

(a) any amount due under liability incurred by the subscriber to the Corporation up to the total amount contributed by the Corporation to his account including interest credited in respect thereof;

(b) where the subscriber has been dismissed from his employment on account of misconduct or gross negligence, the whole or any part of the amount of the contributions by the Corporation, if any, together with interest credited in respect thereof;

Provided further that where a subscriber, who is a permanent employee, has resigned his employment under the Corporation within five years from the commencement of his service, otherwise than for reasons of health, supported by a certificate of such medical authority as the Administration Committee may approve, to the effect that he is unfit for further service, the whole of the amount of the contributions by the Corporation, if any, together with the interest credited in respect thereof shall be deducted from the sum standing to the credit of the subscriber and paid to the Corporation:

Provided further that the deductions of the Corporation's contributions in the cases referred to in clause (iii) of regulation 9 shall be made.

24. Nomination.—(1) A subscriber shall, as soon as may be after joining the Provident Fund, send to the Chief Accounts Officer, a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the Provident Fund, in the event of his death before that amount has become payable, or having become payable has not been paid:

Provided that if, at the time of making the nomination, the subscriber has a family, the nomination shall not be in favour of any person or persons other than the members of his family.

(2) If a subscriber nominates more than one person under sub-regulation (1), he shall specify in the nomination the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may stand to his credit in the Provident Fund at any time.

(3) Every nomination shall be in Form A, A-1, B or B-1 annexed to these regulations as is appropriate in the circumstances.

(4) A subscriber may at any time cancel a nomination by sending a notice in writing to the Chief Accounts Officer:

Provided that the subscriber shall, along with such notice, send a fresh nomination made in accordance with the provisions of this regulation.

(5) A subscriber may provide in a nomination—

(a) In respect of any specified nominee, that in the event of his predeceasing the subscriber, the right conferred upon that nominee shall pass to such other person as may be specified in the nomination;

(b) That the nomination shall become invalid in the event of the happening of a contingency, specified therein:

Provided that if at the time of making the nomination the subscriber has no family, he shall provide in the nomination that it shall become invalid in the event of his subsequently acquiring a family.

(6) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause (a) of sub-regulation (5) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of clause (b) of sub-regulation (5) or the proviso thereto, the subscriber shall send to the Chief Accounts Officer a notice in writing cancelling the nomination, together with a fresh nomination made in accordance with the provision of this regulation.

(7) Every nomination made and every notice of cancellation given, by a subscriber shall, to the extent that it is valid, take effect on the date on which it is received by the Chief Accounts Officer.

Explanation.—In this and other regulations "family" means the wife or wives, or husband, and children, of a subscriber, and the widow or widows and children of a deceased son of a subscriber:

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community to which she belongs to be entitled to maintenance she shall henceforth be deemed to be no longer a member of a family unless the subscriber subsequently indicates by express notification in writing to the Chief Accounts Officer that she shall continue to be so regarded:

Provided further that if a female subscriber expresses by a notice in writing to the Chief Accounts Officer her desire to exclude her husband from her family, the husband shall henceforth be deemed to be no longer a member of the family unless the subscriber subsequently cancels formally in writing her notification excluding him.

Note.—(i) Children means legitimate children.

(ii) An adopted child shall be considered to be a child when the Chief Accounts Officer is satisfied that under the personal Law of the subscriber adoption is legally recognized as conferring the status of a natural child but in this case only.

25. Subject to any deduction under regulation 23, on the death of a subscriber before the amount standing to his credit has become payable, or where the amount has become payable, before payment has been made:

(1) When the subscriber leaves a family—

(a) if a nomination made by the subscriber in accordance with the provisions of these regulations in favour of a member or members of his family subsists, the amount standing to his credit in the Provident Fund

or the part thereof to which the nomination relates, shall become payable to his nominee or nominees in the proportion specified in the nomination;

(b) if no such nomination in favour of a member or members of the family of the subscriber subsists or if such nomination relates only to a part of the Provident Fund, the whole amount or part thereof to which the nomination does not relate, as the case may be, shall, notwithstanding any nomination purporting to be in favour of any person or persons other than a member or members of his family, become payable to the members of his family, in equal shares:

Provided that no share shall be payable to:—

(i) sons who have attained majority;

(ii) sons of a deceased son who have attained majority;

(iii) married daughters whose husbands are alive;

(iv) married daughters of a deceased son whose husbands are alive, if any member of the family other than those specified in clauses (i), (ii), (iii), (iv) above is alive:

Provided also that the widow or widows and the child or children of a deceased son shall receive between them in equal parts only the share which that son would have received if he had survived the subscriber and had been exempted from the provision of clause (i) of the first proviso.

(2) When the subscriber leaves no family, if a nomination made by him in accordance with the provisions of these regulations in favour of any person or persons subsists, the amount standing to his credit in the Provident Fund or part thereof to which the nomination relates, shall become payable to his nominee or nominees in the proportion specified in the nomination.

Note.—When the subscriber leaves no family and no nomination made by him in accordance with these regulations subsists, or if such nomination relates only to a part of the amount standing to his credit in the Provident Fund, the whole amount or the part thereof to which the nomination does not relate as the case may be, will become payable as may be decided by the Administration Committee.

26. The accounts of the Provident Fund shall be operated on by the Chief Accounts Officer of the Corporation who is hereby authorised to arrange for all payments required to be made under these regulations and to re-assign in accordance with these regulations all insurance policies assigned to the Corporation.

27. These regulations shall apply in respect of employees who are in the service of the Corporation on the date these regulations come into force, with effect from the date of their service in the Corporation or the date from which their pay and allowances are charged to the loan to the Corporation under section 31 of the Employees' State Insurance Act, 1948, if that date be earlier and the provisions of these regulations shall, so far as may be, apply in their case:

Provided that the Director General may decide the number and amount of instalments and the manner in which the subscription payable by such employees in respect of the period from the date of their service until the

date of commencement of these regulations shall be paid to the Provident Fund.

28. Agreement to be executed by subscribers.—Every employee on becoming a subscriber to the Provident Fund shall execute an agreement in the following form:—

"I hereby declare that I have read and understood the Employees' State Insurance Corporation (Provident Fund) Regulations, 1951, and I hereby undertake to subscribe to the Provident Fund and I hereby agree to be bound by the said regulations.

Witness..... Signature in full.....

Date..... Date

Address

FORM A.

(Form of nomination when the subscriber has a family and wishes to nominate one member thereof).

I hereby nominate the person mentioned below who is a member of my family (as defined under regulation 24 of the Employees' State Insurance Corporation (Provident Fund) Regulations, 1951), to receive the amount that may stand to my credit in the Provident Fund, in the event of my death before that amount has become payable, or having become payable has not been paid:—

Name and address of nominee.	Relationship with subscriber.	Age.	Contingencies on the happening of which the nomination shall become invalid.	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber.

Dated this day of 19 .. at

Signature of Subscriber

Two witnesses to signature:

(1)

(2)

FORM A-1.

(Form of nomination when the subscriber has a family and wishes to nominate more than one member thereof).

I hereby nominate the persons mentioned below who are members of my family (as defined under regulation 24 of the Employees' State Insurance Corporation (Provident Fund) Regulations, 1951), to receive the amount that may stand to my credit in the Provident Fund, in the event of my death before that amount has become payable or having

become payable has not been paid, and direct that the said amount shall be distributed among the said persons in the manner shown below their names:—

Name and address of nominee.	Relationship with subscriber.	Age.	Amount or share of accumulations to be paid to each.*	Contingencies on the happening of which the nomination shall become invalid.	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber.

Dated this day of 19 , at

Signature of Subscriber

Two witnesses to signature.

(1)

(2)

* NOTE.—This column should be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the Provident Fund at any time.

FORM B.

(Form of nomination when the subscriber has no family and wishes to nominate one person).

I having no family (as defined under regulation 24 of the Employees' State Insurance Corporation (Provident Fund) Regulations, 1951), hereby nominate the person mentioned below to receive the amount that may stand to my credit in the Provident Fund in the event of my death before that amount has become payable or having become payable has not been paid:—

Name and address of nominee.	Relationship with subscriber.	Age.	Contingencies on the happening of which the nomination shall become invalid.*	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber.

Dated this day of 19 , at

Signature of Subscriber

Two witnesses to signature.

(1)

(2)

* NOTE.—Where a subscriber who has no family makes a nomination, he shall specify in this column that the nomination shall become invalid in the event of his subsequently acquiring a family.

FORM B-1.

(Form of nomination when the subscriber has no family and wishes to nominate more than one person).

I having no family (as defined under regulation 24 of the Employees' State Insurance Corporation (Provident Fund) Regulations, 1951), hereby nominate the persons mentioned below to receive the amount that may stand to my credit in the Provident Fund in the event of my death before that amount has become payable, or having become payable has not been paid, and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of nominee.	Relationship with subscriber.	Age.	Amount or share of accumulations to be paid to each.*	Contingencies on the happening of which the nomination shall become invalid.†	Name, address and relationship of the persons, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber.

Dated this day of 19 .. at

Signature of Subscriber

Two witnesses to signature.

(1)

(2)

* NOTE.—This column should be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the Provident Fund at any time.

† NOTE.—Where the subscriber who has no family makes nomination he shall specify in this column that the nomination shall become invalid in the event of his subsequently acquiring a family.

FORM C.

(Form for fixing rate of employee's contribution).

Place

Date

To

The Director General,

Employees' State Insurance Corporation.

Sir,

I hereby notify under regulation No. 8 of the Employees' State Insurance Corporation (Provident Fund) Regulations, 1951, that per cent. of my pay (i.e., Rs.) be deducted every month as my subscription to the Provident Fund until I intimate to you to vary or discontinue such deduction.

Yours faithfully,
Signature.

Designation

P. F. Account No.

FORM D.

(Form of assignment).

I, A. B., of..... hereby assign unto the Employees' State Insurance Corporation the within Policy of Assurance as security for payment of all sums which under the Employees' State Insurance Corporation (Provident Fund) Regulations, 1951, I may hereafter become liable to pay to the Employees' State Insurance Corporation Provident Fund.

I hereby certify that no prior assignment of the within policy exists.

.....
Signature of Subscriber.

Date

Station

One witness to signature.

FORM E.

We, A. B. (the subscriber of) and C.D. (the joint Assured) of in Consideration of the Employees' State Insurance Corporation agreeing at our request to accept the withdrawal of the sum of Rs..... from the sum to the credit of the said A. B. in the Employees' State Insurance Corporation Provident Fund for payment of the premium of the within policy of assurance hereby jointly and severally assign unto the said Employees' State Insurance Corporation the within policy of assurance as security for payment of all sums which under the Employees' State Insurance Corporation (Provident Fund) Regulations, 1951, the said A. B. may hereafter become liable to pay to that Provident Fund.

We hereby certify that no prior assignment of the within policy exists.

.....
Signature of Subscriber
and the Joint Assured.

Date

Station

One witness to signature.

NOTE.—The assignment may be executed on the policy itself either in the subscriber's handwriting or in type, or alternately a typed or printed slip containing the assignment may be pasted on the blank space provided for the purpose on the policy. A typed printed endorsement must be duly signed and if pasted on the policy it must be initialled across all four margins.

FORM F.

I, C. D. wife of A. B., and the assignee of the within policy, having at the request of A. B. the assured, agreed to release my interest in the policy in favour of A. B. in order that A. B. may assign the policy to the Employees' State Insurance Corporation who has agreed to accept the withdrawal of the sum of Rs..... from the sum to the credit of the said A. B. in the Employees' State Insurance Corporation Provident Fund for payment of the premium of the within policy of assurance hereby at the request and by the direction of A. B. assign and I the said A. B. assign and confirm unto the Employees' State Insurance Corporation the within policy of Assurance as security for payment of all sums which under the Employees' State Insurance Corporation (Provident Fund)

Regulations, 1951, said A. B. may hereafter become liable to pay to the Provident Fund.

We hereby certify that no prior assignment of the within policy exists.

Signature of the assignee
and the subscriber,

Date

Station

One witness to signature.

FORM G.

(Form of Re-assignment and Assignment by the Employees' State Insurance Corporation.)

All sums which have become payable by the abovenamed A. B. under the Employees' State Insurance Corporation (Provident Fund) Regulations, 1951, having been paid and all liability for payment by him of any such sums in the future having ceased the Employees' State Insurance Corporation doth hereby re-assign the within policy of assurance to the said A. B. and C. D.

Dated 19 ..

FORM H.

The abovenamed A. B. having died on the day of 19 .. the Employees' State Insurance Corporation doth hereby assign the within policy of assurance to C. D.

Dated 19 ..

FORM I.

(Form of Re-assignment by the Employees' State Insurance Corporation.)

The Employees' State Insurance Corporation doth hereby re-assign the within policy to the said A. B. A. B. and C. D.

Dated 19 ..

Fill in particulars of person legally entitled to receive the policy.

THE EMPLOYERS' LIABILITY ACT, 1938.

ACT NO. XXIV OF 1938¹.

[24th September, 1938.]

*An Act to declare that certain defences shall not be raised in suits for damages ²[* * * *] in respect of injuries sustained by workmen.*

WHEREAS it is expedient to declare that certain defences shall not be raised in suits for damages ²[* * * *] in respect of injuries sustained by workmen; It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Employers' Liability Act, 1938.

¹ For the Statement of Objects and Reasons, see Gazette of India, 1938, Pt. V, p. 286.

² "In the provinces" omitted by I.A.O., 1950.

(2) It extends to ³[the whole of India] ⁴{except the State of Jammu and Kashmir} J.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "workman" means any person who has entered into, or works under a contract of, service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, oral or in writing; and

(b) "employer" includes any body of persons whether incorporated or not, any managing agent of an employer, and the legal representatives of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him.

3. *Defence of common employment barred in certain cases.*—Where personal injury is caused to a workman—

(a) by reason of the omission of the employer to maintain in good and safe condition any way, works, machinery or plant connected with or used in his trade or business, or by reason of any like omission on the part of any person in the service of the employer who has been entrusted by the employer with the duty of seeing that such way, works, machinery or plant are in good and safe condition; or

(b) by reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him, whilst in the exercise of such superintendence; or

(c) by reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform, where the injury resulted from his having so conformed; or

⁵[(d) by reason of the act or omission of any person in the service of the employer done or made—

(i) in the normal performance of the duties of that person; or

(ii) in obedience to any rule or bye-law of the employer (not being a rule or bye-law which is required by or under any law for the time being in force to be approved by any authority and which has been so approved); or

(iii) in obedience to particular instructions given by any other person to whom the employer has delegated authority in that behalf;]

a suit for damages in respect of the injury instituted by the workman or by any person entitled in case of his death shall not fail by reason only

³ Subs. by L.A.O., 1950, for "all the Provinces of India" which had been subs. for "the whole of British India" by L.A.O., 1948.

⁴ Subs. for "except Part B States" by the Part B States (Laws) Act 3 of 1951.

⁵ Subs. for original cl. (d) by the Employers' Liability (Am.) Act 5 of 1951.

of the fact that the workman was at the time of the injury a workman of, or in the service of, or engaged in the work of, the employer.

⁶[3A. Contracting out.—Any provision contained in a contract of service or apprenticeship, or in an agreement collateral thereto, shall be void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injuries caused to the person employed or apprenticed by the negligence of persons in common employment with him.]

4. *Risk not to be deemed to have been assumed without full knowledge.*—In any such suit for damages, the workman shall not be deemed to have undertaken any risk attaching to the employment unless the employer proves that the risk was fully explained to and understood by the workman and that the workman voluntarily undertook the same.

5. *Saving.*—Nothing in this Act shall affect the validity of any decree or order of a civil Court passed before the commencement of this Act in any such suit for damages.

THE EMPLOYMENT OF CHILDREN ACT, 1938.

ACT NO. XXVI OF 1938¹.

[1st December, 1938.]

An Act to regulate ²*[the employment of children in] certain industrial employments.*

WHEREAS it is expedient to regulate ²*[the employment of children in] certain industrial employments;*

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Employment of Children Act, 1938.

(2) It extends to ²*[the whole of India* ⁴*[except the State of Jammu and Kashmir]].*

2. *Definitions.*—In this Act—

⁶ Inserted by Act 5 of 1951.

¹ For Statement of Objects and Reasons, see Gazette of India, 1938, Part V, p. 284.

The Act has been applied to (a) the Darjeeling district with effect from 1st October, 1939, (see Notification No. 301-Com., dated 26th September, 1939, Calcutta Gazette, dated 29th September, 1939), and (b) the excluded areas in the State of Orissa, (see Orissa Government Notification No. 1444-III-C-14/41-Com., dated 16th April, 1941).

² Subs. for "the admission of children to" by the Employment of Children (Amendment) Act 48 of 1951.

³ Subs. by I.A.O., 1950 for "all the Provinces of India" which had been subs. for "the whole of British India" by I.A.O., 1948.

⁴ Subs. for "except Part B States" by the Part B States (Laws) Act 3 of 1951.

(a) "competent authority," in respect of a major port, as defined in the Indian Ports Act, 1908 (XV of 1908), ⁵[or so declared by or under an Act of Parliament] and in respect of a ⁶[* * *] railway, ⁷[* * *] means the Central Government, and in any other case means the ⁸[State Government];

(b) "occupier" of a workshop means the person who has ultimate control over the affairs of the workshop;

⁹[(bb) "port authority" means a body of Port Commissioners or other authority administering a port];

(c) "prescribed" means prescribed by rules made under this Act;

(d) "workshop" means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of section 50 of the Factories Act, 1934¹⁰, for the time being apply.

3. *Prohibition of employment of children in certain occupations.*—
¹[(1) No child who has not completed his fifteenth year shall be employed or permitted to work in any occupation:—

(a) connected with the transport of passengers, goods or mails by railway, or

(b) connected with a port authority within the limits of any port.

(2) No child who has completed his fifteenth year but has not completed his seventeenth year shall be employed or permitted to work in any occupation referred to in sub-section (1), unless the periods of work of such child for any day are so fixed as to allow an interval of rest for at least twelve consecutive hours which shall include at least such seven consecutive hours between 10 P.M. and 7 A.M. as may be prescribed:

Provided that nothing in this sub-section shall apply to any child referred to herein while employed or permitted to work in such circumstances and in accordance with such conditions as may be prescribed in any occupation aforesaid either as an apprentice or for the purpose of receiving vocational training therein:

Provided further that the competent authority may, where it is of opinion that an emergency has arisen and the public interest so requires, by notification in the Official Gazette, declare that the provisions of this sub-section shall not be in operation for such period as may be specified in the notification.]

(3) No child who has not completed his ²[fourteenth] year shall be employed, or permitted to work, in any workshop wherein any of the processes set forth in the Schedule is carried on:

⁵ Inserted by I.A.O., 1950.

⁶ The word "federal" omitted by *ibid.*

⁷ The words "as defined in the Indian Railways Act, 1890," omitted by *ibid.*

⁸ Subs. for "Provincial Government" by *ibid.*

⁹ Inserted by Act 48 of 1951.

¹⁰ See now sec. 67 of the Factories Act, 1948 (LXIII of 1948).

¹ Subs. for original sub-secs. (1) and (2) by Act 48 of 1951.

² Subs. for "twelfth" by the Factories Act 43 of 1913.

Provided that nothing in this sub-section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family only and without employing hired labour or to any school established by, or receiving assistance or recognition from ³[State Government].

3A. Power to amend the Schedule.—The ³[State Government], after giving, by notification in the official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any description of process to the Schedule, and thereupon the Schedule shall have force in the ⁴[State] as if it has been enacted accordingly.

3B. Notice to inspector before carrying on work in certain processes.—Before work in any of the processes set forth in the Schedule is carried on in any workshop after the 1st day of October, 1939, the occupier shall send to the inspector, within whose local limits the workshop is situated, a written notice containing—

- (a) the name and situation of the workshop,
- (b) the name of the person in actual management of the workshop,
- (c) the address to which communications relating to the workshop should be sent; and
- (d) the nature of the processes to be carried on in the workshop.

3C. Disputes as to age.—If any question arises between an inspector and an employer ⁵[as to the age of any child who is employed or is permitted to work by the employer], the question shall, in the absence of a certificate as to the age of such child, granted by a prescribed medical authority, be referred by the inspector for decision to the prescribed medical authority.

⁶[3D. Maintenance of register.—There shall be maintained by every employer, in respect of children employed or permitted to work in pursuance of sub-section (2) of section 3 in any occupation referred to in sub-section (1) of that section, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such occupation, showing—

- (a) the name and date of birth of every child under seventeen years of age so employed or permitted to work;
- (b) the periods of work of any such child and the intervals of rest to which he is entitled;
- (c) the nature of work of any such child; and
- (d) such other particulars as may be prescribed.

3E. Display of notice containing abstract of sections 3 and 4.—Every railway administration and every port authority shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port, as the case may be, a notice in

³ Subs. for "Provincial Government" by L.A.O., 1950.

⁴ Subs. for "Province" by *ibid.*

⁵ Subs. for "as to whether any child has or has not completed his twelfth or fifteenth year, as the case may be" by the Repealing and Amending Act 40 of 1949.

⁶ Inserted by Act 48 of 1951.

such Indian language or languages as may be prescribed and in the English language containing an abstract of sub-sections (1) and (2) of section 3 and section 4 of this Act.

Explanation.—In this section—

"railway administration" has the meaning assigned to it in the Indian Railways Act, 1890 (IX of 1890).]

⁷[4. *Penalty.*—Whoever—

(a) employs any child or permits any child to work in contravention of the provisions of section 3; or

(b) fails to give notice as required by section 3B; or

(c) fails to maintain a register as required by section 3D or makes any false entry in any such register;

shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to five hundred rupees or with both.]

5. *Procedure relating to offences.*—(1) No prosecution under this Act shall be instituted except by or with the previous sanction of an inspector appointed under section 6.

(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.

(3) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

6. *Appointment of Inspectors.*—The competent authority may appoint persons to be inspectors for the purpose of securing compliance with the provisions of this Act, and any inspector so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

7. *Power to make rules.*—(1) The competent authority may by notification in the official Gazette and subject to the condition of previous publication make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) regulate the procedure of inspectors appointed under section 6; * [* * *]

(b) make provision for the grant of certificates of age in respect of young persons in employment or seeking employment, the medical authorities which may issue such certificates, the form of such certificate, the charges which may be made therefor, and the manner in which such certificates may be issued:

Provided that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned.

⁷ Suba. for original sec. 4 by *ibid.*

* The word "and" omitted by *ibid.*

²[(c) fix the seven consecutive hours between 10 P.M. and 7 A.M. for the purpose of sub-section (2) of section 3;

(d) specify the circumstances in which and the conditions subject to which a child may be employed or permitted to work either as an apprentice or for the purpose of receiving vocational training in any occupation referred to in sub-section (1) of section 3;

(e) specify the other particulars which a register maintained under section 3D should contain;

(f) specify the Indian language or languages in which a notice referred to in section 3E shall be published; and

(g) provide for exemption from the provisions of sub-section (2) of section 3 in cases of emergencies which could not have been controlled or foreseen, which are not of a periodical character and which interfere with the normal working of any occupation referred to in sub-section (1) of section 3].

8. [Amendments of section 6, Act XV of 1908].—Rep. by s. 2 and Sch. I of the Repealing and Amending Act 25 of 1942.

THE SCHEDULE

(See Sections 3, 3A and 3B.)

List of Processes.

1. Bidi-making.
2. Carpet-weaving.
3. Cement manufacture, including bagging of cement.
4. Cloth-printing, dyeing and weaving.
5. Manufacture of matches, explosives and fire works.
6. Mica-cutting and splitting.
7. Shellac manufacture.
8. Soap manufacture.
9. Tanning.
10. Wool cleaning.

THE EMPLOYMENT OF CHILDREN (2 * * * RAILWAY) RULES, 1940.

1. ³[(1)] These rules may be called the Employment of Children (2 * * * Railway) Rules, 1940.

³[(2) They extend to the whole of India except the State of Jammu and Kashmir.]

2. In these rules "the Act" means the Employment of Children Act, 1938 (XXVI of 1938).

⁹ Inserted by Act 48 of 1951.

¹ See Notification No. L-3090, d/- 8.2.40.

² The word "Federal" omitted by Notification No. S.R.O. 1559, d/- 1.10.51. see Gazette of India, d/- 6.10.51, Pt. II—Sec. 3, p. 1811.

³ Rule 1 made sub-rule (1) of that rule and new sub-rule (2) inserted by *ibid.*, see *ibid.*

3. Any Inspector appointed by the Central Government may enter any place where persons are employed in any occupation connected with the transport of passengers, goods or mails on a * * * * railway, and may take on the spot, or otherwise such evidence of any persons and exercise such other powers of inspection as he may deem necessary for carrying out the purposes of the Act.

4. Any medical practitioner registered under the Medical Act, 1858, or under any Act of any legislature in "[India]" providing for the maintenance of a Register of medical practitioners, may grant certificate of age in respect of young persons in employment or seeking employment in * * * * railways.

5. A certificate of age granted under rule 4 shall be in the Form appended to these rules.

FORM OF CERTIFICATE

(Rule 5)

Date

I hereby certify that I have personally examined (Name)
son of caste, etc. residing
at and that he has completed his fifteenth year.

His descriptive marks are

Thumb impression

Medical Practitioner.

THE EMPLOYMENT OF CHILDREN (MAJOR PORTS) RULES, 1940.

1. ²[(1)] These rules may be called the Employment of Children (Major Ports) Rules, 1940.

²[(2)] They extend to the whole of India except the State of Jammu and Kashmir.]

2. In these rules, "the Act" means the Employment of Children Act, 1938 (XXVI of 1938).

3. An Inspector appointed by the Central Government may enter any place where persons are employed in any occupation connected with the transport of passengers or goods within the limits of a major port and may take on the spot or otherwise such evidence of any persons, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of the Act.

² See fn. 2 in p. 430, ante.

⁴ Subs. for "British India" by *ibid.*, see *ibid.*

¹ See Notification No. L-3090, dated 26th November, 1940.

² Rule 1 made sub-rule (1) of that rule and new sub-rule (2) inserted by Notification No. S.R.O. 1580, d/- 1.10.51, see Gazette of India, d/- 8.10.51, Pt. II—Sec. 3, p. 1811.

4. A Port Health Officer or Assistant Port Health Officer may grant certificates of age free of charge in respect of young persons in employment or seeking employment in major ports.

5. A certificate of age granted under rule 4 shall be in the Form appended to these rules.

FORM OF CERTIFICATE

(Rule 5)

Date

I hereby certify that I have personally examined (Name)
 son of (caste, etc.) residing
 at and that he has completed his fifteenth year.
 His descriptive marks are
 Thumb-impression.

Port Health Officer.

Assistant Port Health Officer.

THE FACTORIES ACT, 1948.

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THE SCHEDULE

THE FACTORIES ACT, 1948.

ACT NO. LXIII OF 1948¹.

[23rd September, 1948.]

An Act to consolidate and amend the law regulating labour in factories.

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Factories Act, 1948.

¹For Statement of Objects and Reasons, see Gazette of India, 1947, Pt. V, pp. 580-581; for Report of Select Committee, see *ibid.*, 1948, Pt. V, pp. 551-590.

²[(2) It extends to the whole of India ²[except the State of Jammu and Kashmir].]

(3) It shall come into force on the 1st day of April, 1949.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "adult" means a person who has completed his eighteenth year of age;

(b) "adolescent" means a person who has completed his fifteenth year of age but has not completed his eighteenth year ;

^{2a}[(bb) "calendar year" means the period of twelve months beginning with the first day of January in any year;]

(c) "child" means a person who has not completed his fifteenth year of age;

(d) "young person" means a person who is either a child or an adolescent;

(e) "day" means a period of twenty four hours beginning at midnight;

(f) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector of Factories;

(g) "power" means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency;

(h) "prime mover" means any engine, motor or other appliance which generates or otherwise provides power;

(i) "transmission machinery" means any shaft, wheel, drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance;

(j) "machinery" includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied;

(k) "manufacturing process" means any process for—

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or

(ii) pumping oil, water or sewage, or

(iii) generating, transforming or transmitting power; or

² Subs. by L.A.O., 1950 for former sub-section (2) which had been subs. for original sub-sec. (2) by the Repealing and Amending Act 40 of 1949.

^{2a} Subs. w.e.f. 1.4.51 for "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin" by the Part B States (Laws) Act 3 of 1951.

^{2a} Inserted by the Factories (Am.) Act 25 of 1954.

²⁰[(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding:] or

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels;

(l) "worker" means a person employed, directly or through any agency, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process;

(m) "factory" means any premises including the precincts thereof—

(i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,—

but does not include a mine subject to the operation of ⁴[the Indian Mines Act, 1952 (XXXV of 1952)], or a railway running shed;

(n) "occupier" of a factory means the person who has ultimate control over the affairs of the factory, and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;

(o) "managing agent" has the meaning assigned to it in the Indian Companies Act, 1913 (VII of 1913);

(p) "prescribed" means prescribed by rules made by the ⁵[State Government] under this Act;

* * * * *

(r) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "relay" and each of such periods is called a "shift".

3. *References to time of day.*—In this Act references to time of day are references to Indian Standard Time, being five and a half hours ahead of Greenwich Mean Time:

Provided that for any area in which Indian Standard time is not ordinarily observed the ⁵[State Government] may make rules—

(a) specifying the area,

(b) defining the local mean time ordinarily observed therein, and

(c) permitting such time to be observed in all or any of the factories situated in the area.

²⁰ Suba. for original sub-cl. (iv) by Act 25 of 1954.

⁴ Suba. for "the Indian Mines Act, 1923 (IV of 1923)" by Act 25 of 1954.

⁵ Suba. for "Provincial Government" by I.A.O., 1950.

⁶ Clause (q) repealed by *ibid.*

^{6a}[4. *Power to declare different departments to be separate factories or two or more factories to be a single factory.*—The State Government may, on an application made in this behalf by an occupier, direct, by an order in writing, that for all or any of the purposes of this Act different departments or branches of a factory of the occupier specified in the application shall be treated as separate factories or that two or more factories of the occupier specified in the application shall be treated as a single factory.]

5. *Power to exempt during public emergency.*—In any case of public emergency the ³[State Government] may, by notification in the official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act ⁷[except section 67] for such period and subject to such conditions as it may think fit:

Provided that no such notification shall be made for a period exceeding three months at a time.

6. *Approval, licensing and registration of factories.*—(1) the ⁵[State Government] may make rules—

(a) requiring the previous permission in writing of the ⁵[State Government] or the Chief Inspector to be obtained for the site on which the factory is to be situated and for the construction or extension of any factory or class or description of factories;

(b) requiring for the purpose of considering applications for such permission the submission of plans and specifications;

(c) prescribing the nature of such plans and specifications and by whom they shall be certified;

(d) requiring the registration and licensing of factories or any class or description of factories, and prescribing the fees payable for such registration and licensing and for the renewal of licences;

(e) requiring that no licence shall be granted or renewed unless the notice specified in section 7 has been given.

(2) If on an application for permission referred to in clause (a) of sub-section (1) accompanied by the plans and specifications required by the rules made under clause (b) of that sub-section, sent to the ⁵[State Government] or Chief Inspector by registered post, no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied for in the said application shall be deemed to have been granted.

(3) Where a ⁵[State Government] or a Chief Inspector refuses to grant permission to the site, construction or extension of a factory or to the registration and licensing of a factory, the applicant may within thirty days of the date of such refusal appeal to the Central Government if the decision appealed from was of the ⁵[State Government] and to the ⁵[State Government] in any other case.

⁵ Subs. for "Provincial Government" by I.A.O., 1950.

^{6a} Subs. for original sec. 4 by Act 25 of 1954.

⁷ Inserted by *ibid.*

Explanation.—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery, or within such limits as may be prescribed, of the addition of any plant or machinery.

7. *Notice by occupier.*—(1) The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory, send to the Chief Inspector a written notice containing—

(a) the name and situation of the factory ;

(b) the name and address of the occupier ;

^{7a}[(bb) the name and address of the owner of the premises or building (including the precincts thereof) referred to in section 93;]

(c) the address to which communications relating to the factory may be sent ;

(d) the nature of the manufacturing process—

(i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act, and

(ii) to be carried on in the factory during the next twelve months in the case of all factories ;

(e) the nature and quantity of power to be used ;

(f) the name of the manager of the factory for the purposes of this Act ;

(g) the number of workers likely to be employed in the factory ;

(h) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act ;

(i) such other particulars as may be prescribed.

(2) In respect of all establishments which come within the scope of the Act for the first time, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) within thirty days, from the date of the commencement of work.

(3) Before a factory engaged in a manufacturing process which is ordinarily carried on for less than one hundred and eighty working days in the year resumes working, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) ⁸[at least thirty days] before the date of the commencement of work.

(4) Whenever a new manager is appointed, the occupier shall send to the ^{2a}[Inspector a written notice and to the Chief Inspector a copy thereof] within seven days from the date on which such person takes over charge.

(5) During any period for which no person has been designated as manager of a factory or during which the person designated does not manage

^{7a} Inserted by Act 25 of 1954.

⁸ Subs. for "within thirty days" by Act 40 of 1949.

^{2a} Subs. for "Chief Inspector a written notice" by Act 25 of 1954.

the factory, any person found acting as manager, or if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

CHAPTER II.

THE INSPECTING STAFF.

8. *Inspectors.*—(1) The ⁵[State Government] may, by notification in the official Gazette, appoint such persons as possess the prescribed qualification to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The ⁵[State Government] may, by notification in the official Gazette, appoint any person to be a Chief Inspector who shall, in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector throughout the ⁵[State].

(3) No person shall be appointed under sub-section (1), sub-section (2) or sub-section (5) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(4) Every District Magistrate shall be an Inspector for his district.

(5) The ⁵[State Government] may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(6) In any area where there are more Inspectors than one the ⁵[State Government] may, by notification as aforesaid, declare the powers which such Inspectors shall respectively exercise and the Inspector to whom the prescribed notices are to be sent.

(7) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860), and shall be officially subordinate to such authority as the ⁵[State Government] may specify in this behalf.

9. *Powers of Inspectors.*—Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) enter, with such assistants, being persons in the service of the Government, or any local or other public authority, as he thinks fit, any place which is used, or which he has reason to believe is used, as a factory;

(b) make examination of the premises, plant and machinery, require the production of any prescribed register and any other document relating to the factory, and take on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Act;

⁵ Subs. for "Provincial Government" by L.A.O., 1950.

⁵ Subs. for "Province" by L.A.O., 1950.

(c) exercise such other powers as may be prescribed for carrying out the purposes of this Act :

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself.

10. *Certifying surgeons.*—(1) The ¹[State Government] may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such factory or class or description of factories as it may assign to them respectively.

(2) A certifying surgeon may, with the approval of the ¹[State Government], authorise any qualified medical practitioner to exercise any of his powers under this Act for such period as the certifying surgeon may specify and subject to such conditions as the ¹[State Government] may think fit to impose, and references in this Act to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of, a certifying surgeon, or having been so appointed or authorised, continue to exercise such powers, who is or becomes the occupier of a factory or is or becomes directly or indirectly interested therein or in any process or business carried on therein or in any patent or machinery connected therewith or is otherwise in the employ of the factory.

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

(a) the examination and certification of young persons under this Act ;

(b) the examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed ;

(c) the exercising of such medical supervision as may be prescribed for any factory or class or description of factories where—

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein ;

(ii) by reason of any change in the manufacturing process carried on or in the substances used therein or by reason of the adoption of any new manufacturing process or of any new substance for use in a manufacturing process, there is a likelihood of injury to the health of workers employed in that manufacturing process ;

(iii) young persons are, or are about to be, employed in any work which is likely to cause injury to their health.

Explanation.—In this section “qualified medical practitioner” means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933).

¹ Subs. for “Provincial Government” by I.A.O., 1950.

CHAPTER III.

HEALTH.

11. Cleanliness.—(1) Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular—

(a) accumulations of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms and from staircases and passages, and disposed of in a suitable manner ;

(b) the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method ;

(c) where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained ;

(d) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall—

(i) where they are painted or varnished, be repainted or revarnished at least once in every period of five years ;

(ii) where they are painted or varnished or where they have smooth impervious surfaces, be cleaned at least once in every period of fourteen months by such method as may be prescribed ;

(iii) in any other case, be kept whitewashed, or colourwashed, and the whitewashing or colourwashing shall be carried out at least once in every period of fourteen months ;

(e) the dates on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on in a factory, it is not possible for the occupier to comply with all or any of the provisions of sub-section (1), the ¹[State Government] may by order exempt such factory or class or description of factories from any of the provisions of that sub-section and specify alternative methods for keeping the factory in a clean state.

12. Disposal of wastes and effluents.—(1) Effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein.

(2) The ¹[State Government] may make rules prescribing the arrangements to be made under sub-section (1) or requiring that the arrangements made in accordance with sub-section (1) shall be approved by such authority as may be prescribed.

13. Ventilation and temperature.—(1) Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom—

¹ Subs. for "Provincial Government" by I.A.O., 1950.

(a) adequate ventilation by the circulation of fresh air, and
 (b) such a temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health ;—
 and in particular,—

(i) walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable ;

(ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the workers therefrom, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means.

(2) The ¹[State Government] may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that a thermometer shall be provided and maintained in such place and position as may be specified.

(3) If it appears to the ¹[State Government] that in any factory or class or description of factories excessively high temperatures can be reduced by such methods as whitewashing, spraying or insulating and screening outside walls or roofs or windows, or by raising the level of the roof, or by insulating the roof either by an air space and double roof or by the use of insulating roof materials, or by other methods, it may prescribe such of these or other methods as shall be adopted in the factory.

14. *Dust and fume.*—(1) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, or any dust in substantial quantities, effective measures shall be taken to prevent its inhalation and accumulation in any workroom, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to workers employed in the room.

15. *Artificial humidification.*—(1) In respect of all factories in which the humidity of the air is artificially increased, the ¹[State Government] may make rules,—

(a) prescribing standards of humidification ;

(b) regulating the methods used for artificially increasing the humidity of the air ;

(c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded ;

¹ Subs. for "Provincial Government" by L.A.O., 1950.

(d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source or drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) is not effectively purified he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before specified date.

16. Overcrowding.—(1) No room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in every workroom of a factory in existence on the date of the commencement of this Act at least three hundred and fifty cubic feet and of a factory built after the commencement of this Act at least five hundred cubic feet of space for every worker employed therein, and for the purposes of this sub-section no account shall be taken of any space which is more than fourteen feet above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may by order in writing exempt, subject to such conditions, if any, as he may think fit to impose any workroom from the provisions of this section, if he is satisfied that compliance therewith in respect of the room is unnecessary in the interest of the health of the workers employed therein.

17. Lighting.—(1) In every part of a factory where workers are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(2) In every factory all glazed windows and skylights used for the lighting of the workrooms shall be kept clean on both the inner and outer surfaces and, so far as compliance with the provisions of any rules made under sub-section (3) of section 13 will allow, free from obstruction.

(3) In every factory effective provision shall, so far as is practicable, be made for the prevention of—

(a) glare, either directly from a source of light or by reflection from a smooth or polished surface;

(b) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any worker.

(4) The ¹[State Government] may prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

¹ Subs. for "Provincial Government" by L.A.O., 1950.

18. *Drinking water.*—(1) In every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "drinking water" in a language understood by a majority of the workers employed in the factory, and no such point shall be situated within twenty feet of any washing place, urinal or latrine unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed, provision shall be made for cooling drinking water during hot weather by effective means and for distribution thereof.

(4) In respect of all factories or any class or description of factories the ¹[State Government] may make rules for securing compliance with the provisions of sub-sections (1), (2) and (3) and for the examination by prescribed authorities of the supply and distribution of drinking water in factories.

19. *Latrines and urinals.*—(1) In every factory,—

(a) sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at the factory;

(b) separate enclosed accommodation shall be provided for male and female workers;

(c) such accommodation shall be adequately lighted and ventilated, and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any workroom except through an intervening open space or ventilated passage;

(d) all such accommodation shall be maintained in a clean and sanitary condition at all times;

(e) sweepers shall be employed whose primary duty it would be to keep clean latrines, urinals and washing places.

(2) In every factory wherein more than two hundred and fifty workers are ordinarily employed—

(a) all latrine and urinal accommodation shall be of prescribed sanitary types;

(b) the floors and internal walls, up to a height of three feet, of the latrines and urinals and the sanitary blocks shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface;

(c) without prejudice to the provisions of clauses (d) and (e) of sub-section (1), the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.

¹ Subs. for "Provincial Government" by L.A.O., 1950.

(3) The ¹ [State Government] may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein, and provide for such further matters in respect of sanitation in factories, including the obligation of workers in this regard, as it considers necessary in the interest of the health of the workers employed therein.

20. *Spittoons*.—(1) In every factory there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

(2) The ¹ [State Government] may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and provide for such further matters relating to their maintenance in a clean hygienic condition.

(3) No person shall spit within the premises of a factory except in the spittoons provided for the purpose and a notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees.

CHAPTER IV.

SAFETY.

21. *Fencing of machinery*.—(1) In every factory the following, namely,—

(i) every moving part of a prime mover and every flywheel connected to a prime mover, whether the prime mover or flywheel is in the engine house or not;

(ii) the headrace and tailrace of every water-wheel and water turbine;

(iii) any part of a stock-bar which projects beyond the head stock of a lathe; and

(iv) unless they are in such position or of such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, the following, namely,—

(a) every part of an electric generator, a motor or rotary converter;

(b) every part of transmission machinery; and

(c) every dangerous part of any other machinery,

shall be securely fenced by safeguards of substantial construction which shall be kept in position while the parts of machinery they are fencing are in motion or in use:

Provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when, it being

¹ Subs. for "Provincial Government" by L.A.O., 1950.

necessary to make an examination of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation is made or carried out in accordance with the provisions of ^{1a} [sub-section (1) of section 22].

(2) The ¹ [State Government] may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

22. Work on or near machinery in motion.—(1) Where in any factory it becomes necessary to examine any part of machinery referred to in section 21 while the machinery is in motion, or as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing whose name has been recorded in the register prescribed in this behalf and while he is so engaged,—

(a) such worker shall not handle a belt at a moving pulley unless the belt is less than six inches in width and unless the belt-joint is either laced or flush with the belt;

(b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle, wheel or pinion, and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

^{1b} (2) No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of the machine or of any adjacent machinery.]

(3) The ¹ [State Government] may, by notification in the official Gazette, prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

23. Employment of young persons on dangerous machines.—(1) No young person shall work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and—

(a) has received sufficient training in work at the machine, or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

¹ Subs. for "Provincial Government" by I.A.O., 1950.

^{1a} Subs. for "section 22" by Act 25 of 1954.

^{1b} Subs. for original sub-sec. (2) by Act 25 of 1954.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the ¹ [State Government], being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

24. *Striking gear and devices for cutting off power.*—(1) In every factory—

(a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on to the fast pulley;

(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room :

Provided that in respect of factories in operation before the commencement of this Act, the provisions of this sub-section shall apply only to work-rooms in which electricity is used as power.

25. *Self-acting machines.*—No traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structure which is not part of the machine :

Provided that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

26. *Casing of new machinery.*—(1) In all machinery driven by power and installed in any factory after the commencement of this Act,—

(a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger ;

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a factory any machinery driven by power which does not comply with the provisions of ^{1c} [sub-section (1) or any rules made under sub-section (3)] shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

¹ Subs. for "Provincial Government" by I.A.O., 1950.

^{1c} Subs. for "sub-section (1)" by Act 25 of 1954.

1d[(3) The State Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.]

27. *Prohibition of employment of women and children near cotton-openers.*—No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work :

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

28. *Hoists and lifts.*—(1) In every factory—

(a) every hoist and lift shall be—

(i) of good mechanical construction, sound material and adequate strength;

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination;

(b) every hoistway and liftway shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part ;

(c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon ;

(d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing ;

(e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely :—

(a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load ;

(b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments ;

(c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which

1d Sube. for original sub-sec (3) by 161d.

does not fully comply with the provisions of sub-section (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The ¹[State Government] may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

^{1a}[29. *Lifting machines, chains, ropes and lifting tackles.*—(1) In any factory the following provisions shall be complied with in respect of every lifting machine (other than a hoist or lift) and every chain, rope and lifting tackle for the purpose of raising or lowering persons, goods or materials :—

(a) all parts, including the working gear, whether fixed or movable, of every lifting machine and every chain, rope or lifting tackle shall be—

(i) of good construction, sound material and adequate strength and free from defects ;

(ii) properly maintained ; and

(iii) thoroughly examined by a competent person at least once in every period of twelve months, or at such intervals as the Chief Inspector may specify in writing ; and a register shall be kept containing the prescribed particulars of every such examination ;

(b) no lifting machine and no chain, rope or lifting tackle shall, except for the purpose of test, be loaded beyond the safe working load which shall be plainly marked thereon together with an identification mark and duly entered in the prescribed register ; and where this is not practicable, a table showing the safe working loads of every kind and size of lifting machine or chain, rope or lifting tackle in use shall be displayed in prominent positions on the premises ;

(c) while any person is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

(2) The State Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories—

(a) prescribing further requirements to be complied with in addition to those set out in this section ;

(b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

(3) For the purposes of this section a lifting machine or a chain, rope or lifting tackle shall be deemed to have been thoroughly examined if a visual examination supplemented, if necessary, by other means and by the dismantling of parts of the gear, has been carried out as carefully as

¹ Subs. for "Provincial Government" by I.A.O., 1950.
^{2a} Subs. for original sec. 29 by Act 25 of 1954.

the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined.

Explanation.—In this section,—

(a) "lifting machine" means a crane, crab winch, teagle, pulley block, gin wheel, transporter or runway;

(b) "lifting tackle" means chain slings, rope slings, rings, hooks, shackles and swivels.]

30. Revolving machinery.—(1) In every room in a factory in which the process of grinding is carried on there shall be permanently affixed to or placed near each machine in use a notice indicating the maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted, and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.

(2) The speeds indicated in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley disc or similar appliance driven by power is not exceeded.

31. Pressure plant.—(1) If in any factory any part of the plant or machinery used in a manufacturing process is operated at a pressure above atmospheric pressure effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded.

(2) The ¹[State Government] may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories.

32. Floors, stairs and means of access.—In every factory—

(a) all floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails;

(b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is at any time required to work.

33. Pits, sumps, openings in floors, etc.—(1) In every factory every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents is or may be a source of danger, shall be either securely covered or securely fenced.

(2) The ¹[State Government] may, by order in writing, exempt, subject to such conditions as may be prescribed, any factory or class or description of factories in respect of any vessel, sump, tank, pit or opening from compliance with the provisions of this section.

¹ Subs. for "Provincial Government" by I.A.O., 1950.

34. *Excessive weights.*—(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.

(2) The ¹[State Government] may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

35. *Protection of eyes.*—In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves—

(a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

(b) risk to the eyes by reason of exposure to excessive light,—the ¹[State Government] may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process.

36. *Precautions against dangerous fumes.*—(1) In any factory no person shall enter or be permitted to enter any chamber, tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risk of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No portable electric light of voltage exceeding twenty-four volts shall be permitted in any factory for use inside any confined space such as is referred to in sub-section (1), and where the fumes present are likely to be inflammable, no lamp or light other than of flame-proof construction shall be permitted to be used in such confined space.

(3) No person in any factory shall enter or be permitted to enter any confined space such as is referred to in sub-section (1) until all practicable measures have been taken to remove any fumes which may be present and to prevent any ingress of fumes and unless either—

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself, that the space is free from dangerous fumes and fit for persons to enter, or

(b) the worker is wearing suitable breathing apparatus and a belt securely attached to a rope, the free end of which is held by a person standing outside the confined space.

(4) Suitable breathing apparatus, reviving apparatus and belts and ropes shall in every factory be kept ready for instant use beside any such confined space as aforesaid which any person has entered, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use; and a sufficient number of persons employed in every factory shall be trained and practised in the use of all such apparatus and in the method of restoring respiration.

¹ Subs. for "Provincial Government" by L.A.O., 1950.

(5) No person shall be permitted to enter in any factory any boiler furnace, boiler flue, chamber tank, vat, pipe or other confined space for the purpose of working or making any examination therein until it has been sufficiently cooled by ventilation or otherwise to be safe for persons to enter.

(6) The ¹[State Government] may make rules prescribing the minimum dimensions of the manholes referred to in sub-section (1) and may by order in writing exempt, subject to such conditions as it may think fit to impose, any factory or class or description of factories from compliance with any of the provisions of this section.

37. *Explosive or inflammable dust, gas, etc.*—(1) Where in any factory any manufacturing process produces dust, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by—

- (a) effective enclosure of the plant or machinery used in the process ;
- (b) removal or prevention of the accumulation of such dust, gas, fume or vapour ;

(c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely :—

(a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or any such pipe shall be effectively stopped by a stop-valve or other means ;

(b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure ;

(c) where any such fastening as aforesaid has been loosened or removed effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured, or, as the case may be, securely replaced ;

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing, soldering or cutting operation which involves the application of heat unless adequate measures have first been taken to remove

¹ Subs. for "Provincial Government" by L.A.O., 1950.

such substance and any fumes arising therefrom or to render such substance and fumes non-explosive or non-inflammable, and no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The ¹[State Government] may by rules exempt, subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

38. *Precautions in case of fire.*—(1) Every factory shall be provided with such means of escape in case of fires as may be prescribed, and if it appears to the Inspector that any factory is not so provided, he may serve on the manager of the factory an order in writing specifying the measures which, in his opinion should be adopted to bring the factory into conformity with the provisions of this section and any rules made thereunder, and requiring them to be carried out before a date specified in the order.

(2) In every factory the doors affording exit from any room shall not be locked or fastened so that they cannot be easily and immediately opened from the inside while any person is within the room, and all such doors, unless they are of the sliding type, shall be constructed to open outwards.

(3) In every factory, every window, door or other exit affording a means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in a language understood by the majority of the workers and in red letters of adequate size or by some other effective and clearly understood sign.

(4) There shall be provided in every factory effective and clearly audible means of giving warning in case of fire to every person employed in the factory.

(5) A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of a factory.

(6) Effective measures shall be taken to ensure that in every factory—

(a) wherein more than twenty workers are ordinarily employed in any place above the ground floor, or

(b) wherein explosive or highly inflammable materials are used or stored,

all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(7) ¹[State Government] may make rules prescribing, in respect of any factory or class or description of factories the means of escape to be provided in case of fire and the nature and amount of fire-fighting apparatus to be provided and maintained.

39. *Power to require specifications of defective parts or tests of stability.*—If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in

¹ Subs. for "Provincial Government" by I.A.O., 1950.

such a condition that it may be dangerous to human life or safety, he may serve on the manager of the factory an order in writing requiring him before a specified date—

(a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or

(b) to carry out such tests in such manner as may be specified in the order, and to inform the Inspector of the results thereof.

40. *Safety of buildings and machinery.*—(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the manager of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

41. *Power to make rules to supplement this Chapter.*—The ¹[State Government] may make rules requiring the provision in any factory or in any class or description of factories of such further devices for securing the safety of persons employed therein as it may deem necessary.

CHAPTER V.

WELFARE.

42. *Washing facilities.*—(1) In every factory—

(a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein ;

(b) separate and adequately screened facilities shall be provided for use of male and female workers ;

(c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The ¹[State Government] may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

43. *Facilities for storing and drying clothing.*—The ¹[State Government] may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

44. *Facilities for sitting.*—(1) In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to

¹ Subst. for "Provincial Government" by L.A.O., 1950.

work in a standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

(2) If, in the opinion of the Chief Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room are able to do their work efficiently in a sitting position, he may, by order in writing require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.

(3) The ¹[State Government] may, by notification in the official Gazette, declare that the provisions of sub-section (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

45. *First-aid appliances.*—(1) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed ¹¹[at any one time] in the factory.

¹²[(2) Nothing except the prescribed contents shall be kept in a first-aid box or cupboard.

(3) Each first-aid box or cupboard shall be kept in the charge of a separate responsible person who is trained in first-aid treatment and who shall always be readily available during the working hours of the factory.]

¹³[(4)] In every factory wherein more than five hundred workers are employed there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed.

46. *Canteens.*—(1) The ¹[State Government] may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which such canteen shall be provided ;

(b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen ;

(c) the foodstuffs to be served therein and the charges which may be made therefor ;

(d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen ;

(e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

¹ Subs. for "Provincial Government" by I.A.O., 1950.

¹¹ Inserted by Act 25 of 1954.

¹² Sub-secs. (2) and (3) subs. for original sub-sec. (2) and original sub-sec. (3) renumbered as sub-sec. (4) by *ibid.*

47. *Shelters, rest rooms and lunch rooms.*—(1) In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers :

Provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section :

Provided further that where a lunch room exists no worker shall eat any food in the work room.

(2) The shelters or rest rooms or lunch rooms to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The ¹[State Government] may—

(a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section ;

(b) by notification in the official Gazette, exempt any factory or class or description of factories from the requirements of this section.

48. *Creches.*—(1) In every factory wherein more than fifty women workers are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

(2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

(3) The ¹[State Government] may make rules—

(a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided, under this section ;

(b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing ;

(c) requiring the provision in any factory of free milk or refreshment or both for such children ;

(d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

49. *Welfare Officers.*—(1) In every factory wherein five hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of welfare officers as may be prescribed.

(2) The ¹[State Government] may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1).

50. *Power to make rules to supplement this Chapter.*—The ¹[State Government] may make rules—

¹ Subs. for "Provincial Government" by I.A.O., 1950.

(a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or class or description of factories from compliance with any of the provisions of this Chapter ;

(b) requiring in any factory or class or description of factories that representatives of the workers employed in the factory shall be associated with the management of the welfare arrangements of the workers.

CHAPTER VI.

WORKING HOURS OF ADULTS.

51. *Weekly hours.*—No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

52. *Weekly holidays.*—(1) No adult worker shall be required or allowed to work in a factory on the first day of the week (hereinafter referred to as the said day), unless—

(a) he has or will have a holiday for a whole day on one of the three days immediately before or after the said day, and

(b) the manager of the factory has, before the said day or the substituted day under clause (a), whichever is earlier,—

(i) delivered a notice at the office of the Inspector of his intention to require the worker to work on the said day and of the day which is to be substituted, and

(ii) displayed a notice to that effect in the factory :

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered at the office of the Inspector and a notice displayed in the factory not later than the day before the said day or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on the said day and has had a holiday on one of the three days immediately before it, that said day shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

53. *Compensatory holidays.*—(1) Where, as a result of the passing of any order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The ¹[State Government] may prescribe the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

¹ Subs. for "Provincial Government" by L.A.O., 1950.

54. Daily hours.—Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day.

^{1b}[Provided that, subject to the previous approval of the Chief Inspector, the daily maximum specified in this section may be exceeded in order to facilitate the change of shifts.]

55. Intervals for rest.—²[(1)] ^{2a}[The periods of work] of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.

²[(2) The State Government or, subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt any factory from the provisions of sub-section (1) so however that the total number of hours worked by a worker without an interval does not exceed six.]

56. Spreadover.—The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55 they shall not spread over more than ten and a half hours in any day :

Provided that the Chief Inspector may, for reasons to be specified in writing, increase the spreadover to twelve hours.

57. Night shifts.—Where a worker in a factory works on a shift which extends beyond midnight,—

(a) for the purposes of sections 52 and 53, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends ;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

58. Prohibition of overlapping shifts.—(1) Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

^{2b}[(2) The State Government or subject to the control of the State Government, the Chief Inspector, may, by written order and for the reason specified therein, exempt on such conditions as may be deemed expedient, any factory or class or description of factories or any department or section of a factory or any category or description of workers therein from the provisions of sub-section (1).]

59. Extra wages for overtime.—(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight

^{1b} Proviso added by Act 25 of 1954.

² Sec. 55 renumbered as sub-sec. (1) thereof and after sub-sec. (1) as so renumbered new sub-sec. (2) added by Act 25 of 1954.

^{2a} Subs. for "The period" by Act 40 of 1949.

^{2b} Subs. for original sub-sec. (2) by Act 25 of 1954.

hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

(2) Where any workers in a factory are paid on a piece rate basis, the ¹[State Government] in consultation with the employer concerned, and the representatives of the workers shall, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of wages of those workers.

(3) For the purposes of this section, "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus.

^{2c}[(4) The cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation 1.—"Standard family" means a family consisting of the worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2.—"Adult consumption unit" means the consumption unit of a male above the age fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of .8 and .6 respectively of one adult consumption unit.

(5) The State Government may make rules prescribing—

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.]

60. Restriction on double employment.—No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

61. Notice of periods of work for adults.—(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the following provisions of this section, and shall be such that workers working for those periods

¹ Subs. for "Provincial Government" by L.A.O., 1950.

^{2c} Subs. for original sub-sec. (4) by Act 25 of 1954.

would not be working in contravention of any of the provisions of sections 51, 52, 54, [55, 56 and 58]²⁰.

(3) Where all the adult workers in a factory are required to work during the same periods, the manager of the factory shall fix those periods for such workers generally.

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work indicating the number of workers in each group.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods during which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shifts, the manager of the factory shall fix the periods during which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts whereunder the periods during which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The ¹[State Government] may prescribe forms of the notice required by sub-section (1) and the manner in which it shall be maintained.

(9) In the case of a factory beginning work after the commencement of this Act, a copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

62. Register of adult workers.—(1) The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing—

- (a) the name of each adult worker in the factory ;
- (b) the nature of his work ;
- (c) the group, if any, in which he is included ;
- (d) where his group works on shifts, the relay to which he is allotted ;
- (e) such other particulars as may be prescribed :

Provided that, if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect

¹ Subs. for "Provincial Government" by L.A.O., 1950.

²⁰ Subs. for "55 and 56" by *ibid.*

of any or all the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall to the corresponding extent be maintained in place of, and be treated as, the register of adult workers in that factory.

(2) The ¹[State Government] may prescribe the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved.

63. Hours of work to correspond with notice under section 61 and register under section 62.—No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory.

64. Power to make exempting rules.—(1) The ¹[State Government] may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory, and the provisions of this Chapter, other than the provisions of clause (b) of sub-section (1) of section 66 and of the proviso to that sub-section, shall not apply to any person so defined.

(2) The ¹[State Government] may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed—

(a) of workers engaged on urgent repairs, from the provisions of sections 51, 52, 54, 55 and 56 ;

(b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 51, 54, 55 and 56 ;

(c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 51, 54, 55 and 56 ;

(d) of workers engaged in any work which for technical reasons must be carried on continuously [* * *]^{2a} from the provisions of sections 51, 52, 54, 55 and 56 ;

(e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day, from the provisions of section 52 ;

(f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons, from the provisions of section 52 ;

(g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of sections 52 and 55 ;

(h) of workers engaged in engine-rooms or boiler-houses or in attending to power-plant or transmission machinery, from the provisions of section 52.

¹ Subs. for "Provincial Government" by L.A.O., 1950.

^{2a} The words "throughout the day" omitted by Act 25 of 1954.

²²[(i) of workers engaged in the printing of newspapers, who are held up on account of the breakdown of machinery, from the provisions of sections 51, 54 and 56;

Explanation.—In this clause the expression “newspapers” has the meaning assigned to it in the Press and Registration of Books Act, 1867 (XXV of 1867);

(j) of workers engaged in the loading or unloading of railway wagons, from the provisions of sections 51, 52, 54, 55 and 56.]

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of section 61 which the ¹[State Government] may deem to be expedient, subject of such conditions as it may prescribe.

²³[(4) In making rules under this section, the State Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2), the following limits of work inclusive of overtime :—

(i) the total number of hours of work in any day shall not exceed ten ;

(ii) the spreadover, inclusive of intervals for rest, shall not exceed twelve hours in any one day ;

Provided that the State Government may, in respect of any or all of the categories of workers referred to in clause (d) of sub-section (2), make rules prescribing the circumstances in which, and the conditions subject to which, the restrictions imposed by clause (i) and clause (ii) shall not apply in order to enable a shift worker to work the whole or part of a subsequent shift in the absence of a worker who has failed to report for duty ;

(iii) the total number of hours of overtime shall not exceed fifty for any quarter.

Explanation.—“Quarter” means a period of three consecutive months beginning on the 1st of January, the 1st of April, the 1st of July or the 1st of October.]

65. Power to make exempting orders.—(1) Where the ¹[State Government] is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class or description of factories should be fixed beforehand it may, by written order, relax or modify the provisions of section 61 in respect of such workers therein, to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The ¹[State Government] or, subject to the control of the ²[State Government], the Chief Inspector, may by written order exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

¹ Subs. for “Provincial Government” by L.A.O., 1950.

² Added by Act 25 of 1954.

²³ Subs. for original sub-sec. (4) by *ibid.*

(3) Any exemption given under sub-section (2) in respect of ^{2b}[working hours] shall be subject to the maximum limits prescribed under sub-section (4) of section 64.

(4) No factory shall be exempted under sub-section (2) for a period or periods exceeding in the aggregate three months in any year.

66. *Further restrictions on employment of women.*—(1) The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely :—

(a) no exemption from the provisions of section 54 may be granted in respect of any woman ;

(b) no woman shall be employed, in any factory except between the hours of 6 A.M. and 7 P.M. ;

Provided that the ¹ [State Government] may, by notification in the official Gazette, in respect of any class or description of factories, vary the limits laid down in clause (b), but so that no such variation shall authorise the employment of any woman between the hours of 10 P.M. and 5 A.M.

^{2a} [(c) there shall be no change of shifts except after a weekly holiday or any other holiday.]

(2) The ¹ [State Government] may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

CHAPTER VII.

EMPLOYMENT OF YOUNG PERSONS.

67. *Prohibition of employment of young children.*—No child who has not completed his fourteenth year shall be required or allowed to work in any factory.

68. *Non-adult workers to carry tokens.*—A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless—

(a) a certificate of fitness granted with reference to him under section 69 is in the custody of the manager of the factory, and

(b) such child or adolescent carries while he is at work a token giving a reference to such certificate.

69. *Certificates of fitness.*—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied

¹ Subs. for "Provincial Government" by L.A.O., 1950.

^{2b} Subs. for "weekly hours of work" by Act 25 of 1954.

^{2a} Inserted by Act 25 of 1954.

by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory in which any young person wishes to work, examine such person and ascertain his fitness for work in a factory.

(2) The certifying surgeon, after examination, may grant to such young person, in the prescribed form, or may renew—

(a) a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year, that he has attained the prescribed physical standards and that he is fit for such work;

(b) a certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his fifteenth year, and is fit for a full day's work in a factory:

Provided that unless the certifying surgeon has personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew a certificate under this sub-section until he has examined such place.

(3) A certificate of fitness granted or renewed under sub-section (2)—

(a) shall be valid only for a period of twelve months from the date thereof;

(b) may be made subject to conditions in regard to the nature of the work in which the young person may be employed, or requiring re-examination of the young person before the expiry of the period of twelve months.

(4) A certifying surgeon shall revoke any certificate granted or renewed under sub-section (2) if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory.

(5) Where a certifying surgeon refuses to grant or renew a certificate or a certificate of the kind requested or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal thereof, state his reasons in writing for so doing.

(6) Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (3), the young person shall not be required or allowed to work in any factory except in accordance with those conditions.

(7) Any fee payable for a certificate under this section shall be paid by the occupier and shall not be recoverable from the young person, his parents or guardian.

70. Effect of certificate of fitness granted to adolescent.—(1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub-section (2) of section 69, and who while at work in a factory carries a token giving reference to

the certificate, shall be deemed to be an adult for all the purposes of Chapters VI and VIII.

²¹[Provided that no such adolescent who has not attained the age of seventeen years shall be employed or permitted to work in any factory during night.

Explanation.—For the purpose of this sub-section "night" shall mean a period of at least twelve consecutive hours which shall include an interval of at least seven consecutive hours falling between 10 P.M. and 7 A.M.]

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under the aforesaid clause (b) shall, notwithstanding his age, be deemed to be a child for all the purposes of this Act.

71. *Working hours for children.*—(1) No child shall be employed or permitted to work, in any factory—

(a) for more than four and a half hours in any day;

²²[(b) during the night.

Explanation.—For the purpose of this sub-section "night" shall mean a period of at least twelve consecutive hours which shall include the interval between 10 P.M. and 6 A.M.]

(2) The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than five hours each; and each child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 52 shall apply also to child workers and no exemption from the provisions of that section may be granted in respect of any child.

(4) No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.

72. *Notice of periods of work for children.*—(1) There shall be displayed and correctly maintained in every factory in which children are employed, in accordance with the provisions of sub-section (2) of section 108 a notice of periods of work for children, showing clearly for every day the periods during which children may be required or allowed to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adult workers in section 61, and shall be such that children working for those periods would not be working in contravention of any of the provisions of section 71.

(3) The provisions of sub-sections (8), (9) and (10) of section 61 shall apply also to the notice required by sub-section (1) of this section.

²¹ Added by Act 25 of 1954.

²² Subs. for original cl. (b) by Act 25 of 1954.

73. Register of child workers.—(1) The manager of every factory in which children are employed shall maintain a register of child workers, to be available to the Inspector at all times during working hours or when any work is being carried on in a factory, showing—

(a) the name of each child worker in the factory,

(b) the nature of his work,

(c) the group, if any, in which he is included,

(d) where his group works on shifts, the relay to which he is allotted, and

(e) the number of his certificate of fitness granted under section 69.

(2) The ¹[State Government] may prescribe the form of the register of child workers, the manner in which it shall be maintained and the period for which it shall be preserved.

74. Hours of work to correspond with notice under section 72 and register under section 73.—No child shall be employed in any factory otherwise than in accordance with the notice of periods of work for children displayed in the factory and the entries made beforehand against his name in the register of child workers of the factory.

75. Power to require medical examination.—Where an Inspector is of opinion—

(a) that any person working in a factory without a certificate of fitness is a young person, or

(b) that a young person working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,—

he may serve on the manager of the factory a notice requiring that such person or young person, as the case may be, shall be examined by a certifying surgeon, and such person or young person shall not, if the Inspector so directs, be employed, or permitted to work, in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 69, or has been certified by the certifying surgeon examining him not to be a young person.

76. Power to make rules.—The ¹[State Government] may make rules²—

(a) prescribing the forms of certificates of fitness to be granted under section 69, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates, and renewals thereof and such duplicates;

(b) prescribing the physical standards to be attained by children and adolescents working in factories;

(c) regulating the procedure of certifying surgeons under this Chapter;

(d) specifying other duties which certifying surgeons may be required to perform in connection with the employment of young persons

¹ Subs. for "Provincial Government" by I.A.O., 1950.

² See Footnote 9 at p. 481, *Infra*.

in factories, and fixing the fees which may be charged for such duties and the persons by whom they shall be payable.

77. *Certain other provisions of law not barred.*—The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938 (XXVI of 1938).

CHAPTER VIII.

ANNUAL LEAVE WITH WAGES.

78. *Application of Chapter.*—(1) The provisions of this Chapter shall not operate to the prejudice of any right to which a worker may be entitled under any other law or under the terms of any award, agreement or contract of service:

Provided that when such award, agreement or contract of service provides for a longer annual leave with wages than provided in this Chapter, the worker shall be entitled only to such longer annual leave.

(2) The provisions of this Chapter shall not apply to workers in any workshop of any railway administered by the Government, who are governed by leave rules approved by the Central Government.

79. *Annual leave with wages.*—(1) Every worker who has worked for a period of 240 days or more in a factory during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of—

(i) if an adult, one day for every twenty days of work performed by him during the previous calendar year;

(ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

Explanation 1.—For the purpose of this sub-section—

(a) any days of lay off, by agreement or contract or as permissible under the standing orders;

(b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks; and

(c) the leave earned in the year prior to that in which the leave is enjoyed;

shall be deemed to be days on which the worker has worked in a factory for the purpose of computation of the period of 240 days or more, but he shall not earn leave for these days.

Explanation 2.—The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

(2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in clause (i) or, as the case may be, clause (ii) of sub-section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.

(3) If a worker is discharged or dismissed from service during the course of the year he shall be entitled to leave with wages at the rates laid down in sub-section (1) even if he has not worked for the entire period specified in sub-section (1) or sub-section (2) entitling him to earn leave.

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If a worker does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year :

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child :

Provided further that a worker, who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in sub-sections (8) and (9) shall be entitled to carry forward the unavailed leave without any limit.

(6) A worker may at any time apply in writing to the manager of a factory not less than fifteen days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof allowable to him during the calendar year :

Provided that the application shall be made not less than thirty days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 (XIV of 1947) :

Provided further that the number of times in which leave may be taken during any year shall not exceed three.

(7) If a worker wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (6) ; and in such a case wages as admissible under section 81 shall be paid not later than fifteen days, or in the case of a public utility service not later than thirty days from the date of the application for leave.

(8) For the purpose of ensuring the continuity of work, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under section 3 of the Industrial Disputes Act, 1947 (XIV of 1947), or a similar Committee constituted under any other Act or if there is no such Works Committee or a similar Committee in the factory, in agreement with the representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the grant of leave allowable under this section may be regulated.

(9) A scheme lodged under sub-section (8) shall be displayed at some conspicuous and convenient places in the factory and shall be in

force for a period of twelve months from the date on which it comes into force, and may thereafter be renewed with or without modification for a further period of twelve months at a time, by the manager in agreement with the Works Committee or similar Committee, or as the case may be, in agreement with the representatives of the workers as specified in sub-section (8), and a notice of renewal shall be sent to the Chief Inspector before it is renewed.

(10) An application for leave which does not contravene the provisions of sub-section (6) shall not be refused, unless refusal is in accordance with the scheme for the time being in operation under sub-sections (8) and (9).

(11) If the employment of a worker who is entitled to leave under sub-section (1) or sub-section (2), as the case may be, is terminated by the occupier before he has taken the entire leave to which he is entitled, or having applied for and having not been granted such leave, the worker quits his employment before he has taken the leave, the occupier of the factory shall pay him the amount payable under section 80 in respect of the leave not taken, and such payment shall be made, where the employment of the worker is terminated by the occupier, before the expiry of the second working day after such termination, and where a worker who quits his employment, on or before the next pay day.

(12) The unavailed leave of a worker shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

80. Wages during leave period.—(1) For the leave allowed to him under section 79, a worker shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the worker of food grains and other articles.

(2) The cash equivalent of the advantage accruing through the concessional sale to the worker of foodgrains and other articles shall be computed as often as may be prescribed, on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation 1.—"Standard family" means a family consisting of a worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2.—"Adult consumption unit" means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of 8 and 6 respectively of one adult consumption unit.

(3) The State Government may make rules⁵ prescribing—

(a) the manner in which the cash equivalent of the advantage

⁵ See footnote 9 at p. 481, *Infra*.

accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

81. Payment in advance in certain cases.—A worker who has been allowed leave for not less than four days, in the case of an adult, and five days, in the case of a child, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

82. Mode of recovery of unpaid wages.—Any sum required to be paid by an employer, under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of wages Act, 1936 (IV of 1936).

83. Power to make rules.—The State Government may make rules directing managers of factories to keep registers containing such particulars as may be prescribed and requiring the registers to be made available for examination by Inspectors.

84. Power to exempt factories.—Where the State Government is satisfied that the rules applicable to workers in a factory provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision it may, by written order, exempt the factory from all or any of the provisions of this Chapter subject to such conditions as may be specified in the order.]

CHAPTER IX.

SPECIAL PROVISIONS.

85. Power to apply the Act to certain premises.—(1) The ¹[State Government] may, by notification in the official Gazette, declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is so ordinarily carried on, notwithstanding that—

(i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty if working without the aid of power, or

(ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner:

Provided that the manufacturing process is not being carried on by the owner only with the aid of his family.

(2) After a place is so declared, it shall be deemed to be a factory for the purposes of this Act, and the owner shall be deemed to be the occupier, and any person working therein, a worker.

Explanation.—For the purposes of this section, "owner" shall include a lessee or mortgagee with possession of the premises.

86. Power to exempt public institutions.—The ¹[State Government] may exempt, subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and

¹ Subs. for "Provincial Government" by L.A.O., 1950.

which is attached to a public institution maintained for the purposes of education, training or reformation, from all or any of the provisions of this Act :

Provided that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the person having the control of the institution submit, for the approval of the ¹[State Government], a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the ¹[State Government] is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act.

87. Dangerous operations.—Where the ¹[State Government] is of opinion that any operation carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules⁶ applicable to any factory or class or description of factories in which the operation is carried on—

(a) specifying the operation and declaring it to be dangerous ;

(b) prohibiting or restricting the employment of women, adolescents or children in the operation ;

(c) providing for the periodical medical examination of persons employed, or seeking to be employed, in the operation, and prohibiting the employment of persons not certified as fit for such employment ;

(d) providing for the protection of all persons employed in the operation or in the vicinity of the places where it is carried on ;

(e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the operation.

88. Notice of certain accidents.—Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

89. Notice of certain diseases.—(1) Where any worker in a factory contracts any disease specified in the Schedule, the manager of the factory

¹ Subs. for "Provincial Government" by L.A.O., 1950.

⁶ In pursuance of the provisions of Sec. 33 (4) of the Factories Act 25 of 1934, corresponding to this section, the Central Government framed the following rules, namely:—(1) The Hazardous Occupations (Lead) Rules, 1937; (2) The Hazardous Occupations (Cellulose Spraying) Rules, 1937; (3) The Hazardous Occupations (Rubber) Rules, 1937; (4) The Hazardous Occupations (Chromium) Rules, 1937; (5) The Hazardous Occupations (Areated Waters) Rules, 1937; (6) The Hazardous Occupations (Sand Blasting) Rules, 1937; (7) The Hazardous Occupations (Miscellaneous) Rules, 1937; (8) The Hazardous Occupations (Weight Lifting) Rules, 1939; (9) The Hazardous Occupations (Bleaching and Dyeing) Rules, 1939; and (10) The Hazardous Occupations (Graphite) Rules, 1941.

For these Rules see pp. 483-493, *Infra*.

shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

(2) If any medical practitioner attends on a person who is or has been employed in a factory, and who is, or is believed by the medical practitioner to be, suffering from any disease specified in the Schedule, the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector stating—

(a) the name and full postal address of the patient,

(b) the disease from which he believes the patient to be suffering, and

(c) the name and address of the factory in which the patient is, or was last, employed.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector, by the certificate of a certifying surgeon or otherwise, that the person is suffering from a disease specified in the Schedule, he shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land-revenue from the occupier of the factory in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to fifty rupees.

90. Power to direct enquiry into cases of accident or disease.—

(1) The ¹[State Government] may, if it considers it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in the Schedule has been, or is suspected to have been, contracted in a factory, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also, so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an inspector under this Act; and every person required by the person making the inquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code (XLV of 1860).

(3) The person holding an inquiry under this section shall make a report to the ¹[State Government] stating the causes of the accident, or as the case may be, disease, and any attendant circumstances, and adding any observations which he or any of the assessors may think fit to make.

(4) The ¹[State Government] may, if it thinks fit, cause to be published any report made under this section or any extracts therefrom.

(5) The ¹[State Government] may make rules for regulating the procedure at inquiries under this section.

¹ Subs. for "Provincial Government" by I.A.O., 1950.

91. Power to take samples.—(1) An Inspector may at any time during the normal working hours of a factory, after informing the occupier or manager of the factory or other person for the time being purporting to be in charge of the factory, take in the manner hereinafter provided a sufficient sample of any substance used or intended to be used in the factory, such use being—

(a) in the belief of the Inspector in contravention of any of the provisions of this Act or the rules made thereunder, or

(b) in the opinion of the Inspector likely to cause bodily injury to, or injury to the health of, workers in the factory.

(2) Where the Inspector takes a sample under sub-section (1), he shall, in the presence of the person informed under that sub-section unless such person wilfully absents himself, divide the sample into three portions and effectively seal and suitably mark them, and shall permit such person to add his own seal and mark thereto.

(3) The person informed as aforesaid shall, if the Inspector so requires, provide the appliances for dividing, sealing and marking the sample taken under this section.

(4) The Inspector shall—

(a) forthwith give one portion of the sample to the person informed under sub-section (1) ;

(b) forthwith send the second portion to a Government Analyst for analysis and report thereon ;

(c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance.

(5) Any document purporting to be a report under the hand of any Government Analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance.

CHAPTER X.

PENALTIES AND PROCEDURE.

92. General penalty for offences.—Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rule made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both, and if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which the contravention is so continued.

¹193. *Liability of owner of premises in certain circumstances.*—(1) Where in any premises separate buildings are leased to different occupiers for the use as separate factories, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach roads, drainage, water supply, lighting and sanitation.

(2) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owners of the premises in respect of the carrying out of the provisions of sub-section (1).

(3) Where in any premises, independent and self-contained, floors or flats are leased to different occupiers for use as separate factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Act in respect of—

(i) latrines, urinals and washing facilities in so far as the maintenance of the common supply of water for these purposes is concerned ;

(ii) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or use of an occupier ;

(iii) safe means of access to the floors or flats and maintenance and cleanliness of staircases and common passages ;

(iv) precautions in case of fire ;

(v) maintenance of hoists and lifts ; and

(vi) maintenance of any other common facilities provided in the premises.

(4) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (3).

(5) The provisions of sub-section (3) relating to the liability of the owner shall apply where in any premises independent rooms with common latrines, urinals and washing facilities are leased to different occupiers for use as separate factories :

Provided that the owner shall be responsible also for complying with the requirements relating to the provision and maintenance of latrines, urinals and washing facilities.

(6) The Chief Inspector shall have, subject to the control of the State Government, the power to issue orders to the owner of the premises referred to in sub-section (5) in respect of the carrying out of the provisions of section 46 or section 48.

(7) Where in any premises portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the provisions of—

(i) Chapter III, except sections 14 and 15 :

(ii) Chapter IV, except sections 22, 23, 27, 34, 35 and 36 :

Provided that in respect of the provisions of sections 21, 24 and 32

the owner's liability shall be only in so far as such provisions relate to things under his control :

Provided further that the occupier shall be responsible for complying with the provisions of Chapter IV in respect of plant and machinery belonging to or supplied by him :

(iii) section 42.

(8) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (7).

(9) In respect of sub-sections (5) and (7), while computing for the purposes of any of the provisions of this Act the total number of workers employed, the whole of the premises shall be deemed to be a single factory.]

94. Enhanced penalty after previous conviction.—If any person who has been convicted of any offence punishable under section 92 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both :

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

95. Penalty for obstructing Inspector.—Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder, or conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

96. Penalty for wrongfully disclosing results of analysis under section 91.—Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

97. Offences by workers.—(1) Subject to the provisions of section 111, if any worker employed in a factory contravenes any provision of this Act or any rules or orders made thereunder, imposing any duty or liability on workers, he shall be punishable with fine which may extend to twenty rupees.

(2) Where a worker is convicted of an offence punishable under sub-section (1) the occupier or manager of the factory shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

98. *Penalty for using false certificate of fitness.*—Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

99. *Penalty for permitting double employment of child.*—If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to fifty rupees, unless it appears to the Court that the child so worked without the consent or connivance of such parent, guardian or person.

100. *Determination of occupier in certain cases.*—(1) Where the occupier of a factory is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable :

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members, residing within * [* * *] India to be the occupier of the factory for the purposes of this Chapter, and such individual shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the occupier of a factory is a company, and one of the directors thereof, or in the case of a private company, any one of the shareholders thereof, may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable :

Provided that the Company may give notice to the Inspector that it has nominated a director, or in the case of a private company, a shareholder, who is resident in either case within * [* * *] India, to be the occupier of the factory for the purposes of this Chapter, and such director or shareholder, as the case may be, shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

(3) Where the owner of any premises or building referred to in section 93 is not an individual, the provisions of this section shall apply to such owner as they apply to occupiers of factories who are not individuals.

101. *Exemption of occupier or manager from liability in certain cases.*—Where the occupier or manager of a factory is charged with an offence punishable under this Act, he shall be entitled, upon complaint

* The words "the Provinces of" rep. by L.A.O. 1950.

duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,—

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the occupier or manager of the factory, and the occupier or manager, as the case may be, shall be discharged from any liability under this Act in respect of such offence :

Provided that in seeking to prove as aforesaid, the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor :

Provided further that, if the person charged as the actual offender by the occupier or manager cannot be brought before the Court at the time appointed for hearing the charge, the Court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the Court, the Court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager.

102. Power of Court to make orders.—(1) Where the occupier or manager of a factory is convicted of an offence punishable under this Act the Court may, in addition to awarding any punishment, by order in writing require him, within a period specified in the order (which the Court may, if it thinks fit and on application in such behalf, from time to time extend) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed,

(2) Where an order is made under sub-section (1), the occupier or manager of the factory, as the case may be, shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if, on the expiry of such period or extended period, as the case may be, the order of the Court has not been fully complied with, the occupier or manager, as the case may be, shall be deemed to have committed a further offence, and may be sentenced therefor by the Court to undergo imprisonment for a term which may extend to six months or to pay a fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or both to undergo such imprisonment and to pay such fine, as aforesaid.

103. Presumption as to employment.—If a person is found in a factory at any time, except during intervals for meals or rest, when work is going on or the machinery is in motion, he shall until the contrary is proved, be deemed for the purposes of this Act and the rules made thereunder to have been at that time employed in the factory.

104. Onus as to age.—(1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that worker.

105. Cognizance of offences.—(1) No Court shall take cognizance of any offence under this Act except on complaint by, or with the previous sanction in writing of, an Inspector.

(2) No Court below that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence punishable under this Act.

106. Limitation of prosecutions.—No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector :

Provided that where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

CHAPTER XI.

SUPPLEMENTAL.

107. Appeals.—(1) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Act or the occupier of the factory may, within thirty days of the service of the order, appeal against it to the prescribed authority, and such authority may, subject to rules made in this behalf by the ¹[State Government], confirm, modify or reverse the order.

(2) Subject to rules made in this behalf by the ¹[State Government] (which may prescribe classes of appeals which shall not be heard with the aid of assessors), the appellate authority may, or if so required in the petition of appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as may be prescribed :

Provided that if no assessor is appointed by such body before the

¹ Subs. for "Provincial Government" by L.A.O., 1950.

time fixed for hearing the appeal, or if the assessor so appointed fails to attend the hearing at such time, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or, if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the ¹[State Government] may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the appellate authority may in any case think fit to impose, the appellate authority may, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

108. Display of notices.—(1) In addition to the notices required to be displayed in any factory by or under this Act, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder as may be prescribed and also the name and address of the Inspector and the certifying surgeon.

(2) All notices required by or under this Act to be displayed in a factory shall be in English and in a language understood by the majority of the workers in the factory, and shall be displayed at some conspicuous and convenient place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

(3) The Chief Inspector may, by order in writing served on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health, safety or welfare of the workers in the factory.

109. Service of notices.—The ¹[State Government] may make rules prescribing the manner of the service of orders under this Act on owners, occupiers or managers of factories.

110. Returns.—The ¹[State Government] may make rules requiring owners, occupiers or managers of factories to submit such returns, occasional or periodical, as may in its opinion be required for the purposes of this Act.

111. Obligations of workers.—(1) No worker in a factory—

(a) shall wilfully interfere with or misuse any appliance, convenience or other thing provided in a factory for the purposes of securing the health, safety or welfare of the workers therein;

(b) shall wilfully and without reasonable cause do anything likely to endanger himself or others; and

(c) shall wilfully neglect to make use of any appliance or other thing provided in the factory for the purposes of securing the health or safety of the workers therein.

(2) If any worker employed in a factory contravenes any of the provisions of this section or of any rule or order made thereunder, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

¹ Subs. for "Provincial Government" by L.A.O., 1950.

112. *General power to make rules.*—The ¹[State Government] may make rules² providing for any matter which, under any of the provisions of this Act, is to be or may be prescribed or which may be considered expedient in order to give effect to the purposes of this Act.

113. *Powers of Centre to give directions.*—The Central Government may give directions to a ¹[State Government] as to the carrying into execution of the provisions of this Act.

114. *No charge for facilities and conveniences.*—Subject to the provisions of section 46 no fee or charge shall be realised from any worker in respect of any arrangements or facilities to be provided, or any equipments or appliances to be supplied by the occupier under the provisions of this Act.

115. *Publication of rules.*—All rules made under this Act shall be published in the official Gazette, and shall be subject to the condition of previous publication; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall be not less than three months from the date on which the draft of the proposed rules was published.

116. *Application of Act to Government factories.*—Unless otherwise provided this Act shall apply to factories belonging to the Central or any ²[State Government].

117. *Protection to persons acting under this Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

118. *Restriction on disclosure of information.*—(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes, of this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceedings which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend

¹ Subs. for "Provincial Government" by L.A.O., 1950.

² Different States have framed rules under the Act for their respective areas, namely, (1) The Assam Factories Rules, 1950; (2) The Bihar Factories Rules, 1950; (3) The Bombay Factories Rules, 1950; (4) The Madras Factories Rules, 1950; (5) The Mysore Factories Rules, 1952; (6) The Orissa Factories Rules, 1950; (7) The Punjab Factories Rules, 1952; (8) The West Bengal Factories Rules, 1949; (9) The West Bengal Factories (Welfare Officers) Rules, 1950; (10) The West Bengal Factories (Exemption) Rules, 1951; (11) The Uttar Pradesh Factories Rules, 1950, etc.

to six months, or with fine which may extend to one thousand rupees, or with both.

119. *Amendment of section 3, Act XXVI of 1938.*—[Rep. by the Repealing and Amending Act, 35 of 1950].

120. *Repeal and savings.*—The enactments set out in the Table appended to this section are hereby repealed :

Provided that anything done under the said enactments which could have been done under this Act if it had then been in force shall be deemed to have been done under this Act.

[TABLE. *Enactments repealed.*] - [Repealed by the Repealing and Amending Act 35 of 1950.]

THE SCHEDULE.

(See sections 89 and 90.)

List of Notifiable Diseases.

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead tetra-ethyl poisoning.
3. Phosphorus poisoning or its sequelae.
4. Mercury poisoning or its sequelae.
5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by nitrous fumes.
8. Carbon bisulphide poisoning.
9. Benzene poisoning including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae.
10. Chrome ulceration or its sequelae.
11. Anthrax.
12. Silicosis.
13. Poisoning by halogens or halogen derivatives of the hydro-carbons of the aliphatic series.
14. Pathological manifestations due to—
 - (a) radium or other radio-active substances ;
 - (b) X-rays.
15. Primary epitheliomatous cancer of the skin.
16. Toxic anaemia.
17. Toxic jaundice due to poisonous substances.

THE HAZARDOUS OCCUPATIONS RULES.

1. The Hazardous Occupations (Lead) Rules, 1937.

1. (a) *Title and application.*—These rules may be called the Hazardous Occupations (Lead) Rules, 1937.

(b) They shall apply to all factories in which any operation specified in the Schedule is carried on.

2. *Declaration of operations as hazardous.*—The operations specified in the Schedule are declared to be hazardous operations when carried on in any factory.

3. (1) *Definition of "lead compound."*—In these rules "lead compound" means any compound of lead, other than galena, or any mixture which contains a compound of lead, other than galena (but does not include an alloy containing lead):

Provided that the compound or mixture when subjected to the treatment prescribed in sub-rule (3) yields to an aqueous solution of hydrochloric acid a quantity of soluble lead compound exceeding, when calculated as lead monoxide, 5 per cent. of the dry weight of the portion taken for analysis.

(2) In the case of paints and similar products and other mixtures containing oil or fat the "dry weight" means the dry weight of the material remaining after the substance has been thoroughly mixed and treated with suitable solvents to remove oil, fats, varnish or other media and the treatment referred to in sub-rule (1) shall be applied to the material so remaining.

(3) The treatment referred to in sub-rule (1) shall be as follows:—

A weighed quantity of the material which has been dried at 100°C . and thoroughly mixed shall be continuously shaken for one hour, at the common temperature, with thousand times its weight of an aqueous solution of hydrochloric acid containing 0.25 per cent. by weight of hydrogen chloride. This solution shall thereafter be allowed to stand for one hour and then filtered. The lead salt contained in the clear filtrate shall then be precipitated as lead sulphide and weighed as lead sulphate.

4. *Sampling.*—When an Inspector of Factories suspects that any substance used or intended for use in any factory contains a lead compound he may at any time take for analysis sufficient samples of that substance:

Provided that the manager of the factory may, at the time when a sample is taken and on providing the necessary appliances, require the Inspector to divide the sample into two parts and to make and seal and deliver to him one such part.

5. *Prohibition of employment of women, adolescents and children.*—No woman, adolescent or child shall be employed in any factory in any of the operations specified in items (i) to (vii) inclusive of the Schedule.

6. *Medical certification and examination.*—(1) No person shall

be employed in any factory for more than 15 days in the year, in any of the operations specified in the Schedule unless a special certificate of the fitness in the Form appended to these rules granted to him by a certifying surgeon appointed under section 12 of the Factories Act, 1934, is in the custody of the manager of the factory.

(2) The Chief Inspector of Factories may require that any person granted a certificate under sub-rule (1) shall carry with him while at work a token giving reference to such certificate.

(3) Every person so employed shall be medically examined by a certifying surgeon or by a registered medical practitioner specially appointed by the ¹[State Government] to be a certifying surgeon for the purpose of these rules, at intervals of not more than six months, and a record of such examinations shall be entered in the Form appended to these rules and be preserved by the manager of the factory.

(4) If at any time the certifying surgeon is of opinion that any person is no longer fit for employment in any of the operations specified in the Schedule, he shall cancel the special certificate of fitness of that person.

(5) No person whose special certificate of fitness has been cancelled shall be employed in any of the operations specified in the Schedule unless the certifying surgeon again certifies him to be fit.

7. *Exhaust draughts*.—Where gas, dust or fume is produced in any of the operations specified in the Schedule, provision shall be made for removing the gas, dust or fume by means of an efficient exhaust draught so contrived as to operate on the gas, dust or fume as closely as possible to the point of origin :

Provided that where the provision of an efficient exhaust draught is not reasonably practicable, the Inspector of Factories may require—

(a) respirators of a type approved by him to be provided and maintained in a clean and efficient condition by the occupier and worn by every person working under such conditions;

(b) the damping of floors, apparatus and material to prevent the raising of dust.

Explanation.—"Efficient exhaust draught" means localized ventilation effected by heat or mechanical means, for the removal of gas, vapour, dust or fumes so as to prevent them (as far as practicable under the atmospheric conditions usually prevailing) from escaping into the air of any place in which work is carried on. No draught shall be deemed efficient which fails to remove smoke generated at the point where such gas, vapour, fumes or dust originate.

8. *Floors and work-benches*.—(1) The floor of every room, in which any person is employed on any of the operations specified in items (i) to (vii) of the Schedule, shall be of smooth cement or other impervious material.

¹ Subs. for "Provincial Government" by I.A.O., 1950.

(2) The top of every work-bench in every such room shall be of smooth impervious material.

(3) The said floors and work-benches shall be kept clean and in good condition.

(4) The Chief Inspector of Factories may require by order in writing the said floors and work-benches to be kept wet in such manner as he may deem suitable, in order to reduce dust.

9. *Washing facilities.*—The occupier shall provide and maintain in a cleanly state and in good repair for the use of persons employed in any of the operations specified in the Schedule either—

(i) a trough with a smooth impervious surface fitted with a waste pipe without plug, and of sufficient length to allow at least two feet for every five such persons employed at any one time, and having a constant supply of water from taps or jets above the trough at intervals of not more than two feet; or

(ii) at least one lavatory basin for every five such persons employed at any one time, fitted with a waste pipe and plug, having a constant supply of water;

together with, in either case, a sufficient supply of nail brushes; soap or other suitable cleaning material, and clean towels.

10. *Food, drink and tobacco.*—(1) No food, drink, *pansupari*, or tobacco shall be brought into any room in which any person is employed upon any of the operations specified in the Schedule.

(2) No food, drink, *pansupari* or tobacco shall be consumed in any room in which any person is employed upon any of the operations specified in the Schedule.

11. *Protective clothing.*—Adequate protective clothing such as overalls in clean condition shall be provided by the occupier and worn by every person employed on any of the operations specified in the Schedule.

12. *Tools and apparatus.*—All tools and apparatus used in any operation specified in the Schedule and all rooms in which such operations are carried on shall be kept clean.

13. *Exemptions.*—The Chief Inspector of Factories may grant exemption from the operation of rules 8, 9, 10 (1) or 11 to the extent he deems suitable where he is satisfied that their observance is not necessary for safeguarding the health of the operatives.

SCHEDULE.

(i) Work at a furnace where the reduction or treatment of zinc or lead ores is carried on;

(ii) The manipulation, treatment, or reduction of ashes containing lead; the desilverizing of lead or the refining of dross containing lead;

(iii) The manufacture of alloys containing more than ten per cent. of lead;

(iv) The manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead;

- (v) Handling or mixing of lead tetraethyl;
- (vi) Mixing or pasting in connexion with the manufacture or repair of electric accumulators;
- (vii) The cleaning of work-rooms where any of the processes aforesaid are carried on;
- (viii) Every other manufacturing operation involving the use of any lead compound or the cleaning of work-rooms where any such operation is carried on.

FORM.

[Rule 6 of the Hazardous Occupations (Lead) Rules, 1937.]

SPECIAL CERTIFICATE OF FITNESS.

In respect of persons employed in operations involving the use of lead compounds.

Serial No.

Date.

I hereby certify that I have personally examined (name),

son

daughter

of

wife

(caste, etc.)

who is desirous of being employed for more than 15 days in a year
as , residing at
in the

Factory and that his/her age as nearly as can be ascertained from my examination is years and that he/she is in my opinion fit for employment in work involving the use of lead compounds, until

His/her descriptive marks are

Left thumb-impression of person examined.

Certifying Surgeon.

I certify that I re-examined the person mentioned above on

I extend this certificate until

Signature of
Certifying Surgeon.

Note of
symptoms of
lead poisoning
(if any).

II. The Hazardous Occupations (Cellulose Spraying) Rules, 1937.

1. *Title and application.*—(a) These rules may be called the Hazardous Occupations (Cellulose Spraying) Rules, 1937.

(b) They shall apply to all factories in which the spraying of cellulose ester paints and lacquers is carried on.

2. *Declaration of operation as hazardous.*—The spraying of cellulose

ester paints, or lacquers, is declared to be a hazardous operation when carried on in factory.

3. *Prohibition of the employment of children and adolescents.*—No child or adolescent shall be employed in any factory on the operation specified in rule 2.

4. *Exhaust draughts.*—An efficient exhaust draught shall be provided by mechanical means for the process specified in rule 2. The draught shall operate on the vapour given off in the process as near as may be at the point of origin so as to prevent it (as far as practicable under the atmospheric conditions usually prevailing) from escaping into the air of any place in which work is carried on. The draught shall be maintained working for a period of at least five minutes after the cessation of the operation :

Provided that the Chief Inspector of Factories may grant exemption from the provisions of this rule if he is satisfied that due to the casual nature of the operation they are not necessary to secure the health of the workers.

5. *Position of spray operators.*—Arrangements shall, as far as practicable, be made so as to render it unnecessary for the person operating the spray to be in a position between a ventilating outfit and the article being sprayed.

III. The Hazardous Occupations (Chromium) Rules, 1937.

1. *Title and application.*—(a) These rules may be called the Hazardous Occupations (Chromium) Rules, 1937.

(b) They shall apply to all factories in which any operation involving the use of soluble chromium compounds is carried on.

2. *Declaration of operations as hazardous.*—Operations involving the use of soluble chromium compounds are declared to be hazardous operations when carried on in any factory.

3. *Prohibition of the employment of women, children and adolescents.*—No woman, child or adolescent shall be employed in any factory in any of the operations specified in rule 2.

4. *Protective clothing.*—(a) The occupier shall provide water-proof aprons (of a pattern approved by the Chief Inspector of Factories) or overalls in a clean condition which every person employed on any of the operations specified in rule 2 shall wear.

(b) The occupier shall provide loose fitting rubber gloves of suitable length and rubber boots or other waterproof footwear for the use of those working at any vessel in which the electrolytic plating or oxidation of metal articles by the use of an electrolyte containing chromic acid or other chromium compounds, or any process subsequent thereto, is carried on :

Provided that the Chief Inspector of Factories may grant exemption from any or all the provisions of this rule where he is satisfied that they are not necessary to secure the health of the workers.

5. *Exhaust draughts.*—An efficient exhaust draught shall be provided by mechanical means for the process of electrolytic plating or oxidation of metal articles by the use of an electrolyte containing chromic acid or other chromium compounds. The draught shall operate on the vapour or spray

given off in the process as near as may be at the point of origin, so as to prevent it (as far as practicable under the atmospheric conditions usually prevailing) from escaping into the air of any place in which work is carried on.

IV. The Hazardous Occupations (Rubber) Rules, 1937.

1. *Title and application.*—(a) These rules may be called the Hazardous Occupations (Rubber) Rules, 1937.

(b) They shall apply to all factories in which the operations specified in rule 2 are carried on.

2. *Declaration of operations as hazardous.*—Work on a rubber mixing machine and the use of any organic solvents in the manufacture of goods containing rubber, are declared to be hazardous operations when carried on in any factory.

3. *Prohibition of the employment of children.*—No child shall be employed in any factory on any of the operations specified in rule 2.

4. *Exhaust draughts.*—An efficient exhaust draught shall be provided by mechanical means for any process in which an organic solvent is used in the manufacture of goods containing rubber. The draught shall operate on the vapour given off in the process as near as may be at the point of origin, so as to prevent it (as far as practicable under the atmospheric conditions usually prevailing) from escaping into the air of any place in which work is carried on.

V. The Hazardous Occupations (Aerated Waters) Rules, 1937.

1. *Title and application.*—(a) These rules may be called the Hazardous Occupations (Aerated Waters) Rules, 1937.

(b) They shall apply to all factories in which the manufacture of aerated waters and processes incidental thereto are carried on.

2. *Declaration of operations as hazardous.*—The manufacture of aerated waters and processes incidental thereto are declared to be hazardous operations when carried on in any factory.

3. *Fencing of machines.*—All machines for filling bottles or syphons shall be so constructed, placed or fenced, as to prevent as far as may be practicable a fragment of a bursting bottle or syphon from striking any person employed in the factory.

4. *Face guards and gauntlets.*—(1) The occupier shall provide and maintain in good condition for use of all persons engaged in filling bottles or syphons—

(a) suitable face guards to protect face, neck and throat, and

(b) suitable gauntlets for both arms to protect the whole hand and arms.

Provided that—

(i) this rule shall not apply where bottles are filled by means of an automatic machine so constructed that no fragment of a bursting bottle can escape, and

(ii) where a machine is so constructed that only one arm of the bottler at work upon it is exposed to danger, a gauntlet need not be provided for the arm which is not exposed to danger.

(2) The occupier shall provide and maintain in good condition for the use of all persons engaged in corking, crowning, screwing, wiring, foiling, capsuling, sighting, or labeling bottles or syphons—

(a) suitable face guards to protect the face, neck and throat, and

(b) suitable gauntlets for both arms to protect the arm and at least half of the palm and the space between the thumb and forefinger.

5. *Wearing of face guards and gauntlets.*—All persons engaged in any of the processes named in rule 4 shall, while at work in these processes, wear the face guards and gauntlets provided in pursuance of these rules.

VI. The Hazardous Operations (Sand Blasting) Rules, 1937.

1. *Title and application.*—(a) These rules may be called the Hazardous Operations (Sand Blasting) Rules, 1937.

(b) They shall apply to all factories in which the operation of sand blasting, as defined in rule 2, is carried on.

2. *Definition.*—In these rules "sand blasting" means the use of a jet of sand metal shot, grit or other abrasive, propelled by a blast of compressed air or steam.

3. *Declaration of operation as hazardous.*—Sand blasting is declared to be a hazardous operation when carried on in any factory.

4. *Prohibition of the employment of women, adolescents and children.*—No woman, adolescent or child shall be employed in any factory on sand blasting.

5. *Protective clothing.*—(1) No person shall be allowed to perform or to assist at sand blasting in the open air or to work within 30 feet of sand blasting apparatus in operation in the open air, unless he is wearing a suitable protective helmet and gauntlets.

(2) No person shall be allowed to work in or remain in a sand blasting chamber unless he is wearing a suitable protective helmet, overalls and gauntlets, or to insert his arm or hand into the chamber unless he is wearing a suitable gauntlet, while sand blasting is being carried on.

(3) The occupier shall provide and maintain in good condition all helmets, gauntlets and overalls necessary for compliance with sub-rules (1) and (2).

(4) A protective helmet shall not be considered suitable unless it carries the distinguishing mark of the person to whom it is issued and by whom it is intended to be used and is provided with a sufficient supply of pure air for breathing and ventilation, together with suitable arrangements to permit the escape of the expired air.

(5) No person shall wear a protective helmet that has been worn by another person unless and until such protective helmet shall have been thoroughly disinfected.

VII. The Hazardous Occupations (Miscellaneous) Rules, 1937.

1. *Title and application.*—(a) These rules may be called the Hazardous Occupations (Miscellaneous) Rules, 1937.

(b) They shall apply to all factories in which any operation specified in the Schedule is carried on.

2. *Declaration of operations as hazardous.*—The operations specified in the Schedule are declared to be hazardous operations when carried on in any factory.

3. *Prohibition of the employment of children and adolescents.*—(1) No child shall be employed in any factory in any of the operations specified in the Schedule.

(2) No adolescent shall be employed in any factory in any of the operations specified in items 1 to 7 inclusive of the Schedule.

(3) No female adolescent shall be employed in any factory in any of the operations specified in items 8 and 9 of the Schedule.

SCHEDULE.

1. The manufacture or recovery of any of the following :—

(a) Carbonates, chromates, chlorates, oxides or hydroxides of potassium, sodium, iron, aluminium, cobalt, nickel, arsenic, antimony, zinc or magnesium,

(b) Ammonia and the hydroxide and salts of ammonium,

(c) Sulphurous, sulphuric, nitric, hydrochloric, hydrofluoric, hydriodic, hydrosulphuric, boric, phosphoric, arsenious, arsenic, lactic, acetic, oxalic, tartaric or citric acids and their metallic or organic salts, and

(d) Cyanogen compounds.

2. A wet process,

(a) when carried on for the extraction of metal from ore or from any byproduct or residual material; or

(b) in which electrical energy is used in any process of chemical manufacture.

3. The manufacture or production of carbon-di-sulphide or the production or use of hydrogen sulphide.

4. The manufacture of bleaching powder or the production or use of chlorine gas in any process of chemical manufacture.

5. The distillation or use of gas tar or coal tar, or any product or residue of such tars, in any process of chemical manufacture.

6. The utilization of nitric acid in the manufacture of nitro-compounds.

7. The manufacture of explosive with the use of nitro-compounds.

8. Melting and blowing glass and mixing, grinding and sieving glass-making materials.

9. Vitreous enamelling.

10. Handling wool, hair, bristles, hides and skins.

11. Mixing, grinding and sieving ceramic materials in the dry state.

12. Grinding materials for the manufacture of portland cement and burning and grinding cement clinker, in portland cement factories.

13. Mixing and handling yellow orpiment.

VIII. The Hazardous Occupations (Weight Lifting) Rules, 1939.

1. *Title and application.*—(a) These rules may be called the Hazardous Occupations (Weight Lifting) Rules, 1939.

(b) They shall apply to all factories in which women are employed.

2. *Declaration of operations as hazardous.*—Operations involving the carrying or lifting of articles by women workers are declared to be hazardous operations when carried on in any factory.

3. *Restriction.*—No woman worker shall by herself carry or lift articles weighing more than a third of the woman's weight or 50 lb., whichever is less.

IX. The Hazardous Occupations (Bleaching and Dyeing) Rules, 1939.

1. *Title and application.*—(a) These rules may be called the Hazardous Occupations (Bleaching and Dyeing) Rules, 1939.

(b) They shall apply to all textile factories in which any of the processes of bleaching and dyeing is carried on.

2. *Declaration of operations as hazardous.*—The operations of bleaching and dyeing are declared to be hazardous operations when carried on in any textile factory.

3. *Rubber gloves.*—The occupier shall provide loose fitting rubber gloves of suitable length for the use of workers engaged in any of the processes specified in rule 2. Such gloves shall be collected, examined and cleaned at the close of the day's work and shall be repaired or renewed when necessary.

X. The Hazardous Occupations (Graphite) Rules, 1941.

1. *Title and application.*—(a) These rules may be called the Hazardous Occupations (Graphite) Rules, 1941.

(b) They shall apply to all factories in which the process of powdering graphite and the processes incidental thereto are carried on.

2. *Declaration of operations as hazardous.*—The grinding and sieving of graphite and the processes incidental thereto are declared to be hazardous operations when carried on in any factory.

3. *Prohibition of the employment of women, children, and adolescents.*—No woman, child or adolescent shall be employed in any factory upon any of the operations specified in rule 2.

4. *Medical certificates and examination.*—(1) No person shall be employed in any factory for more than fifteen days in the year, upon any of the operations specified in rule 2 unless a special certificate of fitness in the form appended to these rules granted to him by a certifying surgeon

appointed under section 12 of the Factories Act, 1934, is in the custody of the manager of the factory.

(2) The Inspector of Factories may require that any person in respect of whom a certificate referred to in sub-rule (1) has been granted shall carry with him while at work a token giving reference to such certificate.

(3) Every person so employed shall be medically examined by a certifying surgeon at intervals of not more than six months, and a record of such examinations shall be entered in the form appended to these rules and be preserved by the manager of the factory.

(4) If at any time a certifying surgeon is of opinion that any person is no longer fit for employment upon any of the operations specified in rule 2, he shall cancel the special certificate of fitness granted to that person.

(5) No person whose special certificate of fitness has been cancelled shall be employed upon any of the operations specified in rule 2 unless a certifying surgeon again certifies him to be fit.

5. *Exhaust draughts*.—Provision shall be made for removing the dust produced in any of the operations specified in rule 2 by means of an efficient exhaust draught so contrived as to operate on the dust as closely as possible to the point of origin :

Provided that where the provision of an exhaust draught is not reasonably practicable the Inspector of Factories may require—

(a) respirators of a type approved by him to be provided and maintained in a clean and efficient condition by the occupier and worn by every person working under such conditions, and

(b) the damping of floors, apparatus and material to prevent the raising of dust.

6. *Floors and work-benches*.—(1) The floor of every room in which any person is employed upon any of the operations specified in rule 2 shall be of cement or other impervious material.

(2) The top of every work-bench in every such room shall be of impervious material.

(3) The said floors and work-benches shall be kept clean and in good condition.

(4) The Inspector of Factories may by order in writing require the said floors and work-benches to be kept wet in such manner as he may deem suitable, in order to reduce dust.

7. *Washing facilities*.—The occupier shall provide and maintain in a cleanly state and in good repair for the use of persons employed upon any of the operations specified in rule 2 either (a) a trough with smooth impervious surface fitted with a waste-pipe without plug, and of sufficient length to allow at least two feet for every five such persons employed at any one time, and having a constant supply of water from taps or jets above the trough at intervals of not more than two feet, or (b) at least one lavatory basin for every five such persons employed at any one time, fitted with a waste-pipe and plug, having a constant supply of water; together with, in either case, a sufficient supply of nail brushes, soap or other suitable cleansing material and clean towels.

8. *Food, drink and tobacco.*—No food, drink, *pansupari* or tobacco shall be brought into, or consumed in, any room in which any person is employed upon any of the operations specified in rule 2.

9. *Protective clothing.*—Adequate protective clothing such as overalls in a clean condition shall be provided by the occupier and worn by every person employed upon any of the operations specified in rule 2.

10. *Exemptions.*—The Chief Inspector of Factories may grant exemption from the operation of rules 5 to 8 to the extent he deems suitable, if he is satisfied that their observance is not necessary for safeguarding the health of the operatives.

FORM.

(See Rule 4.)

SPECIAL CERTIFICATE OF FITNESS.

Serial No.

Date

I hereby certify that I have personally examined (name)
son of _____ caste _____ residing at _____
who is desirous of being employed for more
than fifteen days in a year as _____ in
factory and that his age as nearly as can be ascertained from my examination
is _____ years and that he is in my opinion fit for
employment upon any of the processes specified in rule 2 of the Hazardous
Occupations (Graphite) Rules, 1941 until _____

His descriptive marks are

Left thumb-impression of person examined.

Signature

Certifying Surgeon.

Place

I certify that I have re-examined the person mentioned above on
I extend this certificate until _____

Signature

Certifying Surgeon.

Place

THE FATAL ACCIDENTS ACT, 1855.

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'THE FATAL ACCIDENTS ACT, 1855

ACT NO. XIII OF 1855.

[27th March, 1855.]

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

Preamble.—WHEREAS no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him; it is enacted as follows :—

²[1. *Short title and extent.*—(1) This Act may be called the Fatal Accidents Act, 1855.

(2) It extends to the whole of India except the State of Jammu and Kashmir.]

²[1A.] *Suit for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.*—Whenever the death of a person shall be caused by wrongful act, neglect, or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime.

Every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased;

and in every such action, the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit action shall be brought; and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

2. *Not more than one suit to be brought.* Claim for loss to the estate may be added.—Provided always that not more than one action or

¹ Short title given by the Indian Short Titles Act 14 of 1897 was "The Indian Fatal Accidents Act, 1855" which has now been re-titled by the Part B States (Laws) Act 3 of 1951 as "The Fatal Accidents Act, 1855" See sec. 1, sub-sec. (1) of this Act and f.n. 2.

² Inserted by the Part B States (Laws) Act 3 of 1951.

³ Renumbered by *ibid*.

suit shall be brought for, and in respect of the same subject-matter of complaint ;

Provided that, in any such action or suit, the executor, administrator or representative of the deceased may insert a claim for, and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased.

3. *Plaintiff shall deliver particulars, etc.*—The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

4. *Interpretation clause.*—The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject-matter, that is to say the word "person" shall apply to bodies politic and corporate ; and the word "parent" shall include father and mother⁴, and grand-father and grand-mother ; and the word "child" shall include son and daughter, and grand-son and grand-daughter, and step-son and step-daughter.

THE INDUSTRIAL DISPUTES ACT, 1947.

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THE SCHEDULE

THE INDUSTRIAL DISPUTES ACT, 1947.

ACT XIV OF 1947.¹

[11th March, 1947.]

An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.

WHEREAS it is expedient to make provision for the investigation and settlement of industrial disputes, and for certain other purposes hereinafter appearing :

It is hereby enacted as follows :—

CHAPTER I. PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called THE INDUSTRIAL DISPUTES ACT, 1947.

²[(2) It extends to the whole of India except the State of Jammu and Kashmir.]

(3) It shall come into force on the first day of April, 1947.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) 'appropriate Government' means—

(i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, ³[* * * * *], or by a railway company ⁴[* * * * *] ⁵[or concerning any such controlled industry as may be specified in this behalf by the Central Government] or in relation to an industrial dispute concerning ⁶[a banking

¹ For Statement of Objects and Reasons, see Gazette of India, 1946, Pt. V, pp. 239—240; for Reports of Select Committee, see *ibid.*, 1947, Pt. V, pp. 33—35.

Certain States have enacted separate laws relating to Industrial Disputes, e.g., The Bombay Trade Disputes Conciliation Act, 1934 (Bom. 9 of 1934); The Bombay Industrial Disputes Act, 1938 (Bom. 25 of 1938); The Bombay Industrial Relations Act, 1946 (Bom. 11 of 1947); The Central Provinces and Berar Industrial Disputes Settlement Act, 1947 (C.P. 23 of 1947); The Trade Disputes Act, 1929 (Punjab Act—enforced w.e.f. April, 1947); The United Provinces Industrial Disputes Act, 1947 (U.P. 25 of 1947); The Travancore & Cochin Industrial Disputes Act 16 of 1950.

This Act has been amended in Madras by Madras Act 12 of 1949 and in Uttar Pradesh by U.P. Act of 5 of 1951.

² Subs. for former sub-sec. (2) by the Industrial Disputes (Appellate Tribunal) Act 48 of 1950.

³ The words "by the Federal Railway Authority" omitted by L.A.O., 1948.

⁴ The words "operating a Federal Railway" omitted by L.A.O., 1950.

⁵ Inserted by the Industries (Development and Regulation) Act 65 of 1951.

⁶ Subs. for "a mine, oil-field" by the Industrial Disputes (Banking and Insurance Companies) Act 54 of 1949.

or an insurance company, a mine, an oilfield] or a major part, the Central Government, and

(ii) in relation to any other industrial dispute, the ⁷[State Government];

^{2a}[(aa) 'average pay' means the average of the wages payable to a workman—

(i) in the case of monthly paid workman, in the three complete calendar months,

(ii) in the case of weekly paid workman, in the four complete weeks,

(iii) in the case of daily paid workman, in the twelve full working days,

preceding the date on which the average pay becomes payable if the workman had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a workman during the period he actually worked ;]

(b) 'award' means an interim or final determination by an Industrial Tribunal of any industrial dispute or of any question relating thereto ;

⁸[(bb) 'banking company' means a banking company as defined in S. 5 of the Banking Companies Act, 1949 (X of 1949) having branches or other establishments in more than one ⁹[State], and includes the Imperial Bank of India ;]

(c) 'Board' means a Board of Conciliation constituted under this Act ;

(d) 'conciliation officer' means a conciliation officer appointed under this Act ;

(e) 'conciliation proceeding' means any proceeding held by a conciliation officer or Board under this Act ;

¹[(ee) 'controlled industry' means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest ;]

^{1a}[(eee) 'continuous service' means uninterrupted service, and includes service which may be interrupted merely on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman ;]

(f) 'Court' means a Court of inquiry constituted under this Act ;

(g) 'employer' means—

(i) in relation to an industry carried on by or under the authority of

⁷ Subs. for "Provincial Government" by I.A.O., 1950.

^{7a} Inserted by the Industrial Disputes (Am.) Act 43 of 1953.

⁸ Inserted by Act 54 of 1949.

⁹ Subs. for "Province" by I.A.O., 1950.

¹ Inserted by Act 65 of 1951.

^{1a} Inserted by the Industrial Disputes (Am.) Act 43 of 1953.

any department of ²[the Central Government or a ³[State Government]] the authority prescribed in this behalf, or where no authority is prescribed the head of the department.

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority;

* * * * *

(i) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Board, Court or Tribunal, if he is unconnected with the industrial dispute referred to such Board, Court or Tribunal or with any industry directly affected by such dispute ;

²[Provided that no person shall cease to be independent by reason only of the fact that he is a shareholder of an incorporated company which is connected with, or likely to be affected by, such industrial dispute ; but in such a case, he shall disclose to the appropriate Government the nature and extent of the shares held by him in such company.]

(f) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen ;

(k) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person ;

⁴[(kk) "insurance company" means an insurance company as defined in section 2 of the Insurance Act 1938 (IV of 1938) having branches or other establishments in more than one ⁷[State];]

^{7a}[(kkk) "lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the breakdown of machinery or for any other reason to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched ;

Explanation.—Every workman whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause :

Provided that if the workman, instead of being given employment

² Subs. for "a Government in British India" by I.A.O., 1948.

³ Subs. for "Provincial Government" by I.A.O., 1950.

⁴ Cl. (h) defining "Federal Railway" omitted by I.A.O., 1950.

⁵ Inserted by the Industrial Disputes (Am.) Act 18 of 1952.

⁶ Inserted by Act 54 of 1949.

⁷ Subs. for "Province" by I.A.O., 1950.

^{7a} Inserted by Act 43 of 1953.

at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day :

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day :]

(l) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him ;

(m) "prescribed" means prescribed by rules made under this Act ;

(n) "public utility service" means—

(i) any railway service ;

(ii) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends ;

(iii) any postal, telegraph or telephone service ;

(iv) any industry which supplies power, light or water to the public ;

(v) any system of public conservancy or sanitation ;

(vi) any industry specified in the Schedule which the appropriate Government may, if satisfied, that public emergency or public interest so requires, by notification in the official Gazette declare to be a public utility service for the purposes of this Act, for such period as may be specified in the notification :

Provided that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time to time, by any period not exceeding six months, at any one time if in the opinion of the appropriate Government public emergency or public interest requires such extension.

(o) 'railway company' means a railway company as defined in section 3 of the Indian Railways Act, 1890 ;

¹² [(oo) 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman ; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf ; or

(c) termination of the service of a workman on the ground of continued ill-health ;]

(p) 'settlement' means a settlement arrived at in the course of a conciliation proceeding ;

(q) 'strike' means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal

under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment ;

(r) 'Tribunal' means an Industrial Tribunal constituted under this Act ;

^{7c}(rr) 'wages' means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes—

(i) such allowances (including dearness allowance) as the workman is for the time being entitled to ;

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles ;

(iii) any travelling concession ;

but does not include—

(a) any bonus ;

(b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force ;

(c) any gratuity payable on the termination of his service ;]

(s) 'workman' means any person employed (including an apprentice) in any industry to do any skilled or unskilled manual or clerical work for hire or reward and includes, for the purposes of any proceedings under this Act in relation to an industrial dispute, a workman discharged during that dispute, but does not include any person employed in the naval, military or air service of the ⁸[Government].

Madras Amendment.—In sub-cl. (rs) of cl. (n) the words "specified in the Schedule" were omitted by the Industrial Disputes (Mad. Am.) Act, 1949 (Mad. 12 of 1949).

CHAPTER II.

AUTHORITY UNDER THIS ACT.

3. *Works Committee.*—(1) In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with

^{7c} Inserted by *ibid.*

⁸ Subs. for "Crown" by I.A.O., 1950.

their trade union, if any, registered under the Indian Trade Unions Act, 1926.

(2) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

4. *Conciliation officers.*—(1) The appropriate Government may, by notification in the official Gazette, appoint such number of persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

5. *Board of Conciliation.*—(1) The appropriate Government may as occasion arises by notification in the official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit.

(3) The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent the party shall be appointed on the recommendation of that party :

Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number :

Provided that if the appropriate Government notifies the Board that the services of the chairman or of any other member have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

6. *Court of Inquiry.*—(1) The appropriate Government may as occasion arises by notification in the official Gazette constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

(2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number :

Provided that, if the appropriate Government notifies the Court that the services of the chairman have ceased to be available, the Court shall not act until a new chairman has been appointed.

7. *Industrial Tribunals.*—(1) The appropriate Government may constitute one or more Industrial Tribunals for the adjudication of Industrial disputes in accordance with the provisions of this Act.

²[(2) A Tribunal shall consist of such number of independent members as the appropriate Government may think fit to appoint and where the Tribunal consists of two or more members, one of them shall be appointed as the Chairman thereof.]

(3) Where a Tribunal consists of one member only, that member, and where it consists of two or more members, the Chairman of the Tribunal shall be a person who—

(a) is or has been a Judge of a High Court ; or

(b) is or has been a District Judge ; or

(b) is qualified for appointment as a Judge of a High Court :

Provided that no appointment under this sub-section to a Tribunal shall be made of any person not qualified under clause (a) or clause (b) except with the approval of the High Court of the State in which the Tribunal has, or is intended to have, its usual seat.

(4) Where a Tribunal consists of two or more members, every such member (other than the Chairman) shall possess such qualifications as may be prescribed, and where an industrial dispute affecting any banking or insurance company is referred to a Tribunal one of such members may be a person who, in the opinion of the appropriate Government, has special knowledge of banking or insurance, as the case may be.

(5) A Tribunal, where it consists of two or more members, may act notwithstanding the casual and unforeseen absence of the Chairman or any other member, and when the Chairman or other member rejoins his office after such absence, the proceedings may be continued before the Tribunal from the stage at which he so rejoins.]

Uttar Pradesh Amendment.—After sub-sec. (3) of sec. 7 the following new sub-section was added by the Industrial Disputes (U.P. Am.) Act, 1961 (U.P. 25 of 1961) *w.e.f.* 26.6.61, namely:—

"(3A) In relation to an industrial dispute other than that referred to in sub-clause (i) of clause (a) of section 2 or in section 4 of the Industrial Disputes (Banking and Insurance Companies) Act, 1948, the provisions of sub-section (3) shall have effect as if—

(a) after clause (c) the following new clauses (d) and (e) had been added—

'(d) is or has been a Magistrate of the first class for a period exceeding two years;'

'(e) is a person possessing more than two years practical experience of adjudicating or settling industrial disputes;'

(b) in the proviso after the words 'clause (b)' the words 'or clause (d) or clause (e)' had been added."

¹[8. *Filling of vacancies.*—(1) If for any reason a vacancy occurs in the office of the Chairman or any other member of a Board, the appropriate Government shall appoint, in accordance with the provisions

² Sub-secs. (2), (3), (4) and (5) subs. for original sub-secs. (2) and (3) by Act 40 of 1951.

¹ Subs. for original sec. 8 by Act 40 of 1951.

of sub-section (3) of section 5, another person to fill the vacancy and the proceedings may be continued before the Board so reconstituted from the stage at which the vacancy is filled.

(2) If for any reason a vacancy occurs, in the office of the Chairman or any other member of a Court or Tribunal, the appropriate Government shall, in the case of a Chairman, and may, in the case of any other member, appoint another independent person, in accordance with the provisions of section 6 or section 7, as the case may be, to fill the vacancy, and the proceedings, may be continued, before the Court, or the Tribunal so reconstituted from the stage at which the vacancy is filled.]

9. *Finality of orders constituting a Board, Court or Tribunal.*—²[(1)] No order of the appropriate Government appointing any person as a member of a Board, Court or Tribunal shall be called in question in any manner.

²[(2). Where the report of any settlement arrived at in the course of the conciliation proceedings before a Board or the award of a Tribunal consisting of two or more members, is signed by the Chairman and all the other members of the Board or the Tribunal, as the case may be, no such settlement or award shall be invalid by reason only of the casual and unforeseen absence of any of the members (including the Chairman of the Board or the Tribunal) as the case may be, during any stage of the hearing of the proceedings.]

CHAPTER III.

REFERENCE OF DISPUTES TO BOARDS, COURTS OR TRIBUNALS.

10. *Reference of disputes to Boards, Courts or Tribunals.*—(1) ²[Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time], by order in writing

(a) refer the dispute to a Board for promoting a settlement thereof ; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry ; or

(c) refer the dispute ⁴[or any matter appearing to be connected with, or relevant to the dispute] to a Tribunal for adjudication :

Provided that where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced.

2. Original sec. 9 renumbered as sub-sec. (1) of that section, and new sub-sec. (2) inserted, by *ibid.*

3 Suba. for "If any industrial dispute exists or is apprehended, the appropriate Government may" by Act 18 of 1952.

4 Inserted by Act 18 of 1952.

(2) Where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court or Tribunal, the appropriate Government, if satisfied that the persons applying represent the majority of each party shall make the reference accordingly.

(3) Where an industrial dispute has been referred to a Board or Tribunal under this section, the appropriate Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

⁶[(4) Where in an order referring an industrial dispute to a Tribunal under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, the Tribunal shall confine its adjudication to those points and matters incidental thereto.]

(5) Where a dispute concerning any establishment or establishments has been, or is to be, referred to a Tribunal under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter but before submission of the award, include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments.]

Madras Amendment.—After sub-sec. (2) of sec. 10, the following new sub-section was inserted by Madras Act 12 of 1949, namely:—

"(2-A) Notwithstanding anything contained in sub-sections (1) and (2) where a Tribunal has been constituted under this Act for the adjudication of disputes in any specified industry or industries and a dispute exists or is apprehended in any such industry, the employer or a majority of the workmen concerned may refer the dispute to that Tribunal."

CHAPTER IV.

PROCEDURE, POWERS AND DUTIES OF AUTHORITIES.

11. Procedure and Powers of Conciliation Officers, Boards, Courts and Tribunals.—(1) Conciliation officers, Courts and Tribunals shall, subject to the provisions of this Act, follow such procedure as may be prescribed.

(2) A conciliation officer or a member of a Board, Court or Tribunal may, for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(3) Every Board, Court and Tribunal shall have the same powers

as are vested in a civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath ;

(b) compelling the production of documents and material objects ;

(c) issuing commissions for the examination of witnesses ;

(d) in respect of such other matters as may be prescribed ;

and every inquiry or investigation by a Board, Court or Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

(4) A conciliation officer may call for and inspect any document which he has ground for considering to be relevant to the industrial dispute.

(5) With the consent of all parties to the dispute, a Court or Tribunal may, if it so thinks fit, appoint one or more persons as assessors to advise it in the proceedings.

(6) Every conciliation officer and every member of a Board, Court or Tribunal shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

¶ (7) Subject to the rules made under this Act, the costs of, and incidental to, any proceeding before a Tribunal shall be in the discretion of that Tribunal, and the Tribunal shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid, and such costs may, on application made to it by the person entitled, be recovered as arrears of a land revenue or as a public demand by the appropriate Government.

(8) Every Tribunal shall be deemed to be a civil Court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).]

12. *Duties of conciliation officers.*—(1) Where any industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall, hold conciliation proceedings in the prescribed manner.

(2) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute without delay investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the conciliation officer shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for

ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in sub-section (4), the appropriate Government is satisfied that there is a case for reference to a Board or Tribunal, it may make such reference. Where the appropriate Government does not make such a reference it shall record and communicate to the parties concerned its reasons therefor.

(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.

13. Duties of Boards.—(1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) If, on the receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, the appropriate Government does not make a reference to a Tribunal under section 10, it shall record and communicate to the parties concerned its reasons therefor.

(5) The Board shall submit its report under this section within two months of the date ⁷[on which the dispute was referred to it] or within such shorter period as may be fixed by the appropriate Government :

Provided that the appropriate Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate :

Provided further that the time for the submission of the report may be extended by such periods as may be agreed on in writing by all the parties to the dispute.

14. Duties of Courts.—A Court shall inquire into the matters

⁷ Subs. for "of the notice under section 22" by Act 40 of 1951.

referred to it and report thereon to the appropriate Government ordinarily within a period of six months from the commencement of its inquiry.

⁹[15. *Duties of Tribunals.*—Where an industrial dispute has been referred to a Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as practicable on the conclusion thereof, submit its award to the appropriate Government];

16. *Form of report or award.*—The report of a Board or Court and the award of a Tribunal shall be in writing and shall be signed by all the members of the Board, Court or Tribunal as the case may be :

Provided that nothing in this section shall be deemed to prevent any member of the Board, Court or Tribunal from recording a minute of dissent from a report or award from any recommendation made therein.

17. *Publication of reports and awards.*—The report of a Board or Court and the award of a Tribunal, together with any minute of dissent recorded therewith, shall, within a period of one month from the date of its receipt by the appropriate Government, be published in such manner as it thinks fit.

⁸[17-A. *Commencement of the award.*—(1) The award of a Tribunal shall become enforceable on the expiry of thirty days from the date of its publication under section 17 :

Provided that in cases where the award is not appealable and where the appropriate Government is a party to the dispute and is of opinion that it will be inexpedient on public grounds to give effect to the whole or any part of the award, it may, before the expiry of the said period of thirty days, by order in the Official Gazette, either reject the award or modify it.

(2) Where the appropriate Government rejects or modifies any award under the proviso to sub-section (1), it shall, on the first available opportunity, lay that award together with its reasons for rejecting or modifying the same before the Legislative Assembly of the State, or where the appropriate Government is the Central Government, before Parliament.

(3) Subject to the provisions of sub-section (1), the award of a Tribunal shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (1).]

18. *Persons on whom settlements and awards are binding.*—A settlement arrived at in the course of conciliation proceedings under this Act or ¹[an award which has become enforceable] shall be binding on—

(a) all parties to the industrial dispute ;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board or Tribunal, as the case may be, records the opinion that they were so summoned without proper cause ;

⁸ Subs. for former sec. 15 by Act 48 of 1950.

⁹ Inserted by Act 48 of 1950.

¹ Subs. for "an award which is declared by the appropriate Government to be binding under sub-section (9) of section 15" by Act 48 of 1950.

(c) where a party referred to in clause (a), or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates :

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

19. Period of operation of settlements and awards.—(1) A settlement arrived at in the course of a conciliation proceeding under this Act shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months, and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

²[(3) An award shall, subject to the provisions of this section, remain in operation for a period of one year :

Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit :

Provided further that the appropriate Government may, before the expiry of the said period, extend the period of operation by any period not exceeding one year at a time as it thinks fit, so however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(4) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since the award was made, there has been a material change in the circumstances on which it was based, the appropriate Government may refer the award or a part of it to a Tribunal for decision whether the period of operation should not, by reason of such change, be shortened and the decision of the Tribunal on such reference shall, subject to the provision for appeal, be final.

(5) Nothing contained in sub-section (3) shall apply to any award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by the award.

(6) Notwithstanding the expiry of the period of operation under sub-section (3), the award shall continue to be binding on the parties until a period of two months has elapsed from the date on which notice is given

² sub-secs. (5) to (7) subs. for original sub-sec. (3) by Act 48 of 1950.

by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(7) In the computation of the period of operation of an award under sub-section (3), the period during which the implementation of the award is stayed by the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950, shall be excluded.]

20. Commencement and conclusion of proceedings.—(1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the conciliation officer or on the date of the order referring the dispute to a Board, as the case may be.

(2) A conciliation proceeding shall be deemed to have concluded—

(a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;

(b) where no settlement is arrived at, when the report of the conciliation officer is received by the appropriate Government or when the report of the Board is published under section 17, as the case may be, or

(c) when a reference is made to a Court or Tribunal under section 10 during the pendency of conciliation proceedings.

(3) Proceedings before a Tribunal shall be deemed to have commenced on the date of the reference of a dispute for adjudication and such proceedings shall be deemed to have concluded ³[on the date on which the award becomes enforceable under section 17-A].

21. Certain matters to be kept confidential.—There shall not be included in any report or award under this Act any information obtained by a conciliation officer, Board, Court or Tribunal in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such officer, Board, Court or Tribunal, if the trade union, person, firm or company, in question has made a request in writing to the conciliation officer, Board, Court or Tribunal, as the case may be, that such information shall be treated as confidential; nor shall such conciliation officer or any individual member of the Board, Court or Tribunal or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be:

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code.

³ Subs. for "when the award is published by the appropriate Government under section 17, or where an award has been laid before the Legislative Assembly or the House of People under the proviso to sub-section (3) of section 15, when the resolution of the Legislative Assembly or the House of People thereon is passed" by Act 18 of 1952.

CHAPTER V.

STRIKES AND LOCK-OUTS.

22. *Prohibition of strikes and lock-outs.*—(1) No person employed in a public utility service shall go on strike in breach of contract—

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock-out any of his workmen—

(a) without giving them notice of lock-out as hereinafter provided, within six weeks before locking out; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe the number of such notices received or given on that day.

23. *General prohibition of strikes and lock-outs.*—No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out—

(a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;

(b) during the pendency of proceedings before a Tribunal and two months after the conclusion of such proceedings; or

(c) during any period in which a settlement or award is in operation in respect of any of the matters covered by the settlement or award.

24. *Illegal strikes and lock-outs.*—(1) A strike or a lock-out shall be illegal if—

(i) it is commenced or declared in contravention of section 22 or section 23 ; or

(ii) it is continued in contravention of an order made under sub-section (3) of section 10.

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, or Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10.

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

25. *Prohibition of financial aid to illegal strikes and lock-outs.*—No person shall knowingly expend or apply any money in direct furtherance or support of any illegal strike or lock-out.

2a[CHAPTER VA

LAY-OFF AND RETRENCHMENT.

25-A. *Application of sections 25C to 25E.*—(1) Sections 25C to 25E inclusive shall not apply—

(a) to industrial establishments in which less than fifty workmen on an average per working day have been employed in the preceding calendar month ; or

(b) to industrial establishments which are of a seasonal character or in which work is performed only intermittently.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

^{2b}[*Explanation.*—In this section and in sections 25-C, 25-D and 25-E, 'industrial establishment' means—

(i) a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (LXIII of 1948); or

(ii) a mine as defined in clause (j) of section 2 of the Mines Act, 1952 (XXXV of 1952); or

(iii) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (LXIX of 1951).]

25-B. *Definition of one year of continuous service.*—For the purposes of sections 25C and 25F, a workman who, during a period of twelve

^{2a} Chap. VA inserted by Act 43 of 1953.

^{2b} Substituted for the former *Explanation* by the Industrial Disputes (Am.) Act 48 of 1954.

calendar months, has actually worked in an industry for not less than two hundred and forty days shall be deemed to have completed one year of continuous service in the industry.

Explanation.—In computing the number of days on which a workman has actually worked in an industry, the days on which—

(a) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), or under this Act or under any other law applicable to the industrial establishment, the largest number of days during which he has been so laid-off being taken into account for the purposes of this clause ;

(b) he has been on leave with full wages, earned in the previous year ; and

(c) in the case of a female, she has been on maternity leave : so however that the total period of such maternity leave shall not exceed twelve weeks,

shall be included.

25C. *Right of workmen laid-off for compensation.*—Whenever a workman (other than a *badli* workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him had he not been so laid-off :

Provided that—

(a) the compensation payable to a workman during any period of twelve months shall not be for more than forty-five days except in the case specified in clause (b) ;

(b) if during any period of twelve months, a workman has been paid compensation for forty-five days and during the same period of twelve months he is again laid-off for further continuous periods of more than one week at a time he shall, unless there is any agreement to the contrary between him and the employer, be paid for all the days during such subsequent periods of lay-off compensation at the rate specified in this section :

Provided further that it shall be lawful for the employer in any case falling within clause (b) of the first proviso to retrench the workman in accordance with the provisions contained in section 25F, any compensation paid to the workman for having been laid-off during the preceding twelve months being set off against the compensation payable for retrenchment.

Explanation.—“*Badli* workman” means a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster rolls of the establishment, but shall cease to be

regarded as such for the purposes of this section, if he has completed one year of continuous service in the establishment.

25D. Duty of an employer to maintain muster rolls of workmen.—(Notwithstanding that workmen in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purpose of this Chapter a muster roll, and to provide for the making of entries therein by workmen who may present themselves for work at the establishment at the appointed time during normal working hours.

25E. Workmen not entitled to compensation in certain cases.—No compensation shall be paid to a workman who has been laid-off—

(i) if he refuses to accept any alternative employment in the same establishment from which he has been laid-off, or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of five miles from the establishment to which he belongs, if, in the opinion of the employer, such alternative employment does not call for any special skill or previous experience and can be done by the workman, provided that the wages which would normally have been paid to the workman are offered for the alternative employment also ;

(ii) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day ;

(iii) if such laying-off is due to a strike or slowing-down of production on the part of workmen in another part of the establishment.

25F. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of notice ;

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service ;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months ; and

(c) notice in the prescribed manner is served on the appropriate Government.

25G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

25H. Re-employment of retrenched workmen.—Where any workmen are retrenched, and the employer proposes to take into his employ any persons,

he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen to offer themselves for re-employment, and the retrenched workmen who offer themselves for re-employment shall have preference over other persons.

25I. Recovery of moneys due from employers under this Chapter.—Any money due from an employer under the provisions of this Chapter, whether by way of compensation or by way of wages, may, without prejudice to any other mode of recovery, be recovered in the same manner as an arrear of land revenue or as a public demand by the appropriate Government on an application made to it by the person entitled to the money.

25J. Effect of laws inconsistent with this Chapter.—(1) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in other law [including standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946)] :

Provided that nothing contained in this Act shall have effect to derogate from any right which a workman has under ^{2c}[the Minimum Wages Act, 1948 (XI of 1948) or any notification or order issued thereunder or] any award for the time being in operation or any contract with the employer.

(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workmen in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter.]

CHAPTER VI.

PENALTIES.

26. Penalty for illegal strikes and lock-outs.—(1) Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

27. Penalty for instigation, etc.—Any person who instigates, or incites others to take part in, or otherwise acts in furtherance of a strike or lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

28. *Penalty for giving financial aid to illegal strikes and lock-outs.*—Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. *Penalty for breach of settlement or award.*—If any person commits a breach of any term of any settlement or award which is binding on him under this Act, he shall on his first conviction therefor be punishable with fine which may extend to two hundred rupees and in the event of a second or subsequent conviction, with fine which may extend to five hundred rupees.

30. *Penalty for disclosing confidential information.*—Any person who wilfully discloses any such information as is referred to in section 21 in contravention of the provisions of that section shall, on complaint made by or on behalf of the trade union or individual business affected, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

31. *Penalty for other offences.*—(1) Any employer who contravenes the provisions of section 33 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

CHAPTER VII.

MISCELLANEOUS.

32. *Offences by companies, etc.*—Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

¹33. *Conditions of service, etc., to remain unchanged during pendency of proceedings.*—During the pendency of any conciliation proceedings or proceedings before a Tribunal in respect of any industrial dispute, no employer shall—

(a) alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or

(b) discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute,

¹ Subs. for original sec. 33 by Act 48 of 1950.

save with the express permission in writing of the conciliation officer, Board or Tribunal, as the case may be.]

⁵[33-A. *Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings.*—Where an employer contravenes the provisions of section 33 during the pendency of proceedings before a Tribunal, any employee aggrieved by such contravention, may make a complaint in writing, in the prescribed manner to such Tribunal and on receipt of such complaint that Tribunal shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit its award to the appropriate Government and the provisions of this Act shall apply accordingly.]

34. *Cognizance of offences.*—(1) No Court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government.

(2) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

35. *Protection of persons.*—(1) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act, shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

⁶[36. *Representation of parties.*—(1) A workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by—

(a) an officer of a registered trade union of which he is a member ;

(b) an officer of a federation of trade unions to which the trade union referred to in clause (a) is affiliated ;

(c) where the worker is not a member of any trade union, by an officer of any trade union connected with, or by any other workman

⁵ Inserted by *ibid.*

⁶ Subs. for original sec. 36 by Act 48 of 1950.

employed in, the industry in which the worker is employed and authorised in such manner as may be prescribed.

(2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by—

(a) an officer of an association of employers of which he is a member ;

(b) an officer of a federation of associations of employers to which the association referred to in clause (a) is affiliated ;

(c) where the employer is not a member of any association of employers, by an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act or in any proceedings before a Court.

(4) In any proceeding before a Tribunal, a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Tribunal].

37. *Protection of action taken under the Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

38. *Power to make rules.*—(1) The appropriate Government may, subject to the condition of previous publication, make rules¹ for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the powers and procedure of conciliation officers, Boards, Courts and Tribunals including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation, the number of members necessary to form a quorum and and the manner of submission of reports and awards ;

(b) the constitution and functions of and the filling of vacancies in Works Committees, and the procedure to be followed by such committees in the discharge of their duties ;

(c) the allowances admissible to members of Courts, Boards, and Tribunals and to assessors and witnesses ;

(d) the ministerial establishment which may be allotted to a Court.

¹ For Central rules, see The Industrial Disputes (Central) Rules, 1947, (vide Notification No. L.R. 1(4), d/- 9.8.47), and the Industrial Tribunal (Procedure) Rules, 1949, (vide Notification No. L.R. 2(245), d/- 3.12.49, pub. in Gazette of India, Extraordinary, d/- 3.12.49). For these rules see p. 519 et seq. *infra*.

Several State Governments have framed rules under this section, e.g., The Madras Industrial Disputes Rules 1948; The Industrial Disputes (Bombay) Rules, 1947; The Bengal Industrial Disputes Rules, 1947, etc. etc.

Board or Tribunal and the salaries and allowances payable to members of such establishments ;

(e) the manner in which and the persons by and to whom notice of strike or lock-out may be given and the manner in which such notices shall be communicated ;

(f) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court or Tribunal ;

(g) any other matter which is to be or may be prescribed.

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

39. Delegation of power.—The appropriate Government may by order direct that its power under section 3 shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by any officer or authority subordinate to that Government.

40. (Repeal of Act VII of 1929).—[Repealed by Act XXXV of 1950.]

SCHEDULE.

Industries which may be declared to be public utility services under sub-clause (vi) of clause (n), of section 2.

1. Transport (other than railways) for the carriage of passengers or goods, by land, water or air.

2. Coal.

3. Cotton textiles.

4. Foodstuffs.

5. Iron and steel.

Madras Amendment.—In Madras, the Schedule was repealed by Madras Act 12 of 1949.

¹THE INDUSTRIAL DISPUTES (CENTRAL) RULES, 1947.²

PRELIMINARY.

1. Title and application.—(1) These rules may be called the Industrial Disputes (Central) Rules, 1947.

²[(2) They extend to Part 'C' States in relation to all industrial disputes, and to Part 'A' and Part 'B' States in relation only to an industrial dispute concerning—

(a) any industry carried on by or under the authority of the Central Government or by a railway company ; or

¹ See Notification No. L.R. 1 (4), dated 9th August, 1947.

² In these rules the words "Ministry of Labour" have been substituted for the words "Department of Labour" by Notification No. L.R. 1 (22), dated 30th March, 1948.

³ Subs. for former sub-rule (2) by Notification No. S.R.O. 1332, dated 21st August, 1951.

(b) a banking or an insurance company, a mine, an oilfield, or a major port.]

2. *Definitions*.—In these rules, unless there is anything repugnant in the subject or context:—

(a) 'Act' means the Industrial Disputes Act, 1947;

(b) 'Chairman' means the Chairman of a Board, Court or Tribunal or, if the Court or Tribunal consists of one person only, such person;

(c) 'Committee' means a Works Committee constituted under sub-section (1) of section 3 of the Act;

(d) 'Form' means a form in the Schedule to these rules;

(e) 'Section' means a section of the Act;

(f) In relation to an industrial dispute in a ⁴[Part 'C' State], for which the appropriate Government is the ⁵[State Government], reference to the Central Government or the Secretary to the Government of India in the Ministry of Labour or the Ministry of Labour of the Government of India shall be construed as reference to the Chief Commissioner of the ⁶[State], and reference to the Chief Labour Commissioner (Central), Regional Labour Commissioner (Central) and the Conciliation Officer (Central) shall be construed as reference to the appropriate authority appointed in that behalf by the Chief Commissioner of the ⁶[State].

⁷[(g) With reference to clause (g) of section 2 of the Act, it is hereby prescribed that, in relation to an industry carried on by or under the authority of a Department of the Central Government, the officer in charge of the industrial establishment shall be the 'employer' in respect of that establishment.]

PART I.

PROCEDURE FOR REFERENCE OF INDUSTRIAL DISPUTES TO BOARDS OF CONCILIATION, COURTS OF INQUIRY OR INDUSTRIAL TRIBUNALS.

3. *Application*.—An application for the reference of an industrial dispute to a Board, Court or Tribunal shall be made in Form A and shall be delivered personally or forwarded by registered post in triplicate to the Secretary to the Government of India in the Ministry of Labour. The application shall be accompanied by a statement setting forth—

(a) the parties to the dispute;

(b) the specific matters to dispute;

(c) the total number of workmen employed in the undertaking affected;

(d) an estimate of the number of workmen affected or likely to be affected by the dispute; and

⁴ Subs. for "Chief Commissioner's Province" by L.A.O., 1950.

⁵ Subs. for "Provincial Government" by *ibid.*

⁶ Subs. for "Province" by *ibid.*

⁷ Inserted by Notification No. S.R.O. 702, dated 10th April, 1952, pub. in Gazette of India, d-10.4.52, Pt. II-Sec. 3, p. 686.

(c) the efforts made by the parties themselves to adjust the dispute.

4. *Attestation of application.*—The application and the statement accompanying it shall be signed—

(a) in the case of an employer, by the employer himself, or when the employer is an incorporated company or other body corporate, by the agent, manager or other principal officer of the Corporation ;

(b) in the case of workmen, either by the President and Secretary of a registered trade union of the workmen, or by five representatives of the workmen, duly authorised in this behalf at a meeting of the workmen, held for the purpose.

5. *Notification of appointment of Board, Court or Tribunal.*—The appointment of a Board, Court or Tribunal shall be notified in the Official Gazette.

⁸[5-A. *Qualifications of Members of Industrial Tribunals.*—Where an Industrial Tribunal consists of two or more members every such member (other than the Chairman) shall be a person who—

(1) is qualified for appointment as the Chairman of the Tribunal under sub-section (3) of section 7 of the said Act ; or

(2) is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949) ; or

(3) has been a presiding officer for not less than three years of any court or tribunal set up under any law providing for the settlement or adjudication of industrial disputes ; or

(4) in the opinion of the Central Government—

(a) has had experience of problems relating to labour or industry for not less than five years ; or

(b) has special knowledge of economics, finance, banking or insurance.]

6. *Notice to parties to nominate representatives.*—(1) . If the Central Government proposes to appoint a Board, it shall send a notice in form B to the parties requiring them to nominate within a reasonable time persons to represent them on the Board.

(2) The notice to the employer shall be sent to the employer personally, or if the employer is an incorporated company or a body corporate, to the agent, manager or other principal officer of such company or body.

(3) The notice to the workmen shall be sent—

(a) in the case of workmen who are members of a registered trade union, to the President or Secretary of the trade union ; and

(b) in the case of workmen who are not members of a registered trade union, to any workmen who had attested the application made under rule 3 ; and in this case a copy of the notice shall also be sent to the employer who shall display copies thereof on notice boards in a conspicuous manner at the main entrance to the premises of the establishment.

⁸ Added by Notification No. S.R.O. 1702, dated 3rd November, 1951, pub. in Gazette of India, Extraordinary, dated 3rd November, 1951, Pt. II-Sec. 3.

PART II.

POWERS, PROCEDURE AND DUTIES OF CONCILIATION OFFICERS,
BOARDS, COURTS AND TRIBUNALS.

^{2a}[7. *Conciliation proceedings.*—The Conciliation Officer, on receipt of information about an existing or apprehended industrial dispute, may, or, where the dispute relates to a public utility service, on receipt of a notice of a strike or lock-out given under rule 52 or rule 53, shall forthwith, arrange to interview both the employer and the workmen concerned with the dispute at such places and at such times as he may deem fit and shall endeavour to bring about a settlement of the dispute in question.]

8. The conciliation officer may hold a meeting of the representatives of both parties, jointly or of each party separately.

9. The conciliation officer shall conduct the proceedings expeditiously and in such manner as he may deem fit.

10. *Place and time of hearing.*—The sittings of a Board, Court or Tribunal shall be held at such times and places as the Chairman may fix, and the Chairman shall inform the parties of the same in such manner as he thinks fit:

Provided that as far as possible the Board, Court or Tribunal shall sit at or near the place where the dispute or matter arose which is before it.

11. *Quorum for Boards and Courts.*—The quorum necessary to constitute a sitting of a Board or Court shall be as follows:—

(i) in the case of a Board—	Quorum.
where the number of members is 3 ..	2
where the number of members is 5 ..	3
(ii) in the case of a Court—	
where the number of members is not more than 2	1
where the number of members is more than 2	
but less than 5 ..	2
where the number of members is 5 or more	3
[* * * * *]	

13. *Administration of oath.*—Any member of a Board, Court or Tribunal may administer an oath.

14. *Evidence.*—A Board, Court or Tribunal may accept, admit or call for evidence at any stage of the proceedings before it and in such manner as it may think fit.

15. *Summons.*—A summons issued by a Board, Court or Tribunal shall be in Form 'C' and may require any person to produce before it any books, papers or other documents and things in his possession or under his control in any way relating to the matter under investigation or adjudication

^{2a} Substituted for former rule 7 by Notification No. S.R.O. 3274, d/- 15th October, 1954, vide Gazette of India, d/- 23rd October, 1954, PL II-Sec. 3, p. 2330.

³ Rule 12 omitted by Notification No. L.R.-1(97), d/- 6.12.49, pub. in Gazette of India, Extraordinary, d/-5.12.49.

by the Board, Court or Tribunal which the Board, Court or Tribunal thinks necessary for the purpose of such investigation or adjudication.

16. Service of summons or notice.—Any notice, summons, process, or order issued by a Board, Court or Tribunal may be served either personally or by registered post.

^{9a} **[16A. Description of parties in certain cases.**—Where in any proceeding before a Board, Court or Tribunal, there are numerous persons arrayed on one side, such persons shall be described as follows:

(1) all such persons as are members of any union or association shall be described by the name of such union or association; and

(2) all such persons as are not members of any union or association shall be described in such manner as the Board, Court or Tribunal, as the case may be, may determine.

16B. Manner of service in the case of numerous persons as parties to a dispute:

(1) Where there are numerous persons as parties to any proceeding before a Board, Court or Tribunal and such persons are members of any union or association, the service of notice on the Secretary, or where there is no Secretary, on the principal officer, of the union or association shall be deemed to be service on such persons.

(2) Where there are numerous persons as parties to any proceeding before a Board, Court or Tribunal and such persons are not members of any union or association, the Board, Court or Tribunal, as the case may be, shall, where personal service is not practicable, cause the service of any notice to be made by affixing the same to a notice Board at or near the main entrance of the establishment concerned.]

17. Procedure at the first sitting.—At the first sitting of a Board, Court or Tribunal, the Chairman shall call upon the parties in such order as he may think fit to state their case.

18. Information to be kept confidential.—All books, papers and other documents or things produced before a Board, Court or Tribunal whether voluntarily or in pursuance of a summons may be inspected by the Board, Court or Tribunal and also by such parties as the Board, Court or Tribunal allows; but the information obtained therefrom shall not except as provided in the Act, be made public; and such parts of the books, papers, documents or things as in the opinion of the Board, Court or Tribunal do not relate to the matters at issue may be sealed up.

19. Board, Court or Tribunal may proceed ex parte.—If without good cause shown, any party to proceedings before a Board, Court or Tribunal fails to attend or to be represented, the Board, Court or Tribunal may proceed as if he had duly attended or had been represented.

20. Power of entry and inspection.—A Board, Court or Tribunal or any member thereof or any other person authorised in writing by a Board, Court or Tribunal under the Act, at any time between the hours

^{9a} Inserted by Notification No. S.R.O. 40, d/- 24.12.54, see Gazette of India, d/- 1.1.55, Pt. II-Sec. 3, pp. 31-32.

of sunrise and sunset, and in the case of a person authorised in writing by a Board, Court or Tribunal after he has given reasonable notice, enter any building, factory, workshop or other place or premises whatsoever, and inspect the same or any work, machinery, appliance or article therein, or interrogate any person therein in respect of anything situated therein or any matter relevant to the subject-matter of the investigation, enquiry or adjudication.

21. Power of Boards, Courts and Tribunals.—In addition to the powers conferred by sub-section (3) of section 11 of the Act, Boards, Courts and Tribunals shall have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely :—

- (a) discovery and inspection ;
- (b) granting adjournment ;
- (c) reception of evidence taken on affidavit ;

and the Board, Court or Tribunal may summon and examine *suo motu* any person whose evidence appears to it to be material and shall be deemed to be a civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

1[* * * *]

2[21-B. Fees for copies of awards or other documents of Tribunals.—

(1) Fees for making a copy of an award of a Tribunal or any document filed in any proceeding before a Tribunal shall be charged as follows :—

- (a) for the first 200 words or less, 12 annas.
- (b) for every additional 100 words or fraction thereof, 6 annas.

(2) For certifying a copy of any such award or document, a fee of Re. 1 shall be payable.

(3) Copying and certifying fees shall be payable in cash in advance.

(4) Where a party applies for immediate delivery of a copy of any such award or document, an additional fee equal to one-half of the fee leviable under this rule shall be payable.]

22. Decision by majority.—All questions arising for decision at any meeting of a Board, Court or Tribunal, save where the Court or Tribunal consists of one person, shall be decided by a majority of the votes of the members thereof (including the Chairman) present at the meeting. In the event of an equality of votes, the Chairman shall also have a casting vote.

23. Correction of errors.—The Tribunal may correct any clerical mistake or error arising from an accidental slip or omission in any award it issues.

24. Right of representatives.—The representatives of the parties, appearing before a Board, Court or Tribunal, shall have the right of

¹ Rule 21A, inserted by Notification No. LR-1(103), d/-6.3.50, has been omitted by Notification No. S.R.O. 469, d/-7.3.52, pub. in Gazette of India, d/- 15.3.52, Pt. II-Sec. 3, p. 453.

² Inserted by Notification No. S.R.O. 139, d/-18.1.52, pub. in Gazette of India, d/-26.1.52, Pt. II-Sec. 3, p. 129.

examination, cross-examination and re-examination, and of addressing the Board, Court or Tribunal when all evidence has been called.

25. *Proceedings before a Board.*—The proceedings before a Board shall be held in public :

Provided that the Board may at any stage direct that any witness shall be examined or its proceedings shall be held in camera.

PART III.

REMUNERATION OF MEMBERS OF BOARDS, COURTS AND TRIBUNALS, ASSESSORS AND WITNESSES AND ESTABLISHMENT.

26. *Travelling allowance.*—A member of a Board, Court or Tribunal, if a non-official, shall be entitled to draw travelling allowance and halting allowance for any journey performed by him in connection with his duties as such member at the rates admissible and subject to the conditions applicable to a Government servant of the first grade under the Supplementary Rules issued by the Central Government.

27. *Fees.*—The Chairman and members of a Board, Court or Tribunal and assessors appointed to assist a Court or Tribunal shall be granted such fees as may be sanctioned by the Central Government in each case.

28. *Expenses of witnesses.*—Every person who is summoned and duly attends as a witness before a Board, Court or Tribunal shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil courts in the ^{2a}[State] where the investigation, enquiry or adjudication is being conducted.

29. *Establishment.*—The Central Government may appoint a Secretary to the Board, Court or Tribunal and such other staff as it may think necessary and may fix the salaries and allowances payable to them.

PART IV.

REPRESENTATION OF PARTIES.

³[**30. *Form of authority under section 36.***—The authority in favour of a person to represent a workman or an employer in any proceeding under the Act shall be in Form CC.]

31. *Parties bound by acts of representatives.*—A party appearing by representative shall be bound by the acts of that representative.

PART V.

WORKS COMMITTEES.

32. *Constitution.*—Any employer to whom an order made under sub-section (1) of section 3 relates shall forthwith proceed to constitute a Works Committee in the manner prescribed in this Part.

33. *Number of members.*—The number of members constituting the

^{2a} Subs. for "province" by I.A.O., 1950.

³ Subs. for former Rule 30 by Notification No. S.R.O. 469, d/-7.3.52, pub. in Gazette of India, d/- 15.3.52, Pt. II-Sec. 3, p. 453.

Committee shall be fixed so as to afford representation to the various categories, groups and classes of workmen engaged in, and to the sections, shops or departments of, the establishment.

Provided that the total number of members shall not exceed twenty :

Provided further that the number of representatives of the workmen shall not be less than the number of representatives of the employer.

34. *Representatives of employer.*—Subject to the provisions of these rules the representatives of the employer shall be nominated by the employer and shall as far as possible, be officials in direct touch with or associated with the working of the establishment.

35. *Consultation with trade unions.*—Where any workmen of an establishment are members of a registered trade union, the employer shall ask the union to inform him in writing :—

(a) how many of the workmen are members of the union ; and

(b) how their membership is distributed among the sections, shops or departments of the establishment.

36. *Groups of workmen's representatives.*—On receipt of the information called for under rule 35, the employer shall provide for the election of workmen's representatives on the Committee in two groups—

(1) those to be elected by the workmen of the establishment who are members of the union or unions, and

(2) those to be elected by the workmen of the establishment who are not members of the union or unions, bearing the same proportion to each other as the union members in the establishment bear the non-members :

Provided that where more than half the workmen are members of a union, no such division shall be made :

*[Provided that where a registered Trade Union neglects or fails to furnish the information called for under rule 35, within one month of the date of the notice requiring it to furnish such information the members of such Union shall for the purpose of this rule be treated as non-members.]

37. *Electoral constituencies.*—Where under rule 36, the workmen's representatives are to be elected in two groups, the workmen entitled to vote shall be divided into two electoral constituencies, the one consisting of those who are members of a union and the other of those who are not :

Provided that the employer may, if he thinks fit, sub-divide the two electoral constituencies and direct that workmen shall vote in either by groups, sections, shops or departments.

38. *Qualifications of candidates for election.*—Any workman of not less than 19 years of age and with a service of not less than one year in the establishment may if nominated as provided in these rules, be a candidate for election as a representative of the workmen on the Committee.

Provided that the service qualification shall not apply to the first election in an establishment which has been in existence for less than a year.

* Inserted by Notification No. S.R.O. 702, d-10.4.52, pub. in Gazette India, d/- 19.4.52, Pt. II-Sec. 3, p. 636.

39. Qualifications for voters.—All workmen, other than casual employees, who are not less than 18 years of age and who have put in not less than 6 months' service in the establishment shall be entitled to vote in the election of the representative of workmen.

40. Procedure for election.—(1) The employer shall fix a date as the closing date for receiving nominations from candidates for election as workmen's representatives on the Committee.

(2) For holding the election, the employer shall also fix a date which shall not be earlier than three days and later than ten days after the closing date for receiving nominations.

(3) The dates so fixed shall be notified at least seven days in advance to the workmen and the union or unions concerned, such notice shall be affixed on the notice board or given adequate publicity amongst the workmen. The notice shall specify the number of seats to be elected by the members of the union or unions and by the non-members.

(4) A copy of such notice shall be sent to the union or unions concerned.

41. Nomination of candidates for election.—(1) Every nomination shall be made on a nomination paper in form 'H', copies of which shall be supplied by the employer to the workmen requiring them.

(2) Each nomination paper must be signed by the candidate to whom it relates and attested by at least two other voters belonging to the electoral constituency and shall be delivered to the employer.

42. Scrutiny of nomination papers.—(1) On the day following the last day fixed for filing the nomination papers, the nomination papers shall be scrutinised by the employer in the presence of the candidates and the attesting persons and those which are not valid shall be rejected.

(2) For the purpose of sub-rule (1), a nomination paper shall be held to be not valid if (a) the candidate nominated is ineligible for membership under rule 38 or (b) the requirements of rule 41 have not been complied with.

43. Voting in election.—(1) If the number of candidates who have been validly nominated is equal to the number of seats, the candidates shall be forthwith declared duly elected.

(2) If in any constituency the number of candidates is more than the number of seats allotted to it, voting shall take place on the day fixed for election.

(3) The election shall be held in such manner as may be convenient for each electoral constituency.

(4) The voting shall be conducted by the employer, and, if any of the workmen concerned belong to a union, by such of them as the union may nominate.

²[(5) Every workman entitled to vote at an electoral constituency shall have as many votes as there are seats to be filled in the constituency.]

44. *Arrangements for election.*—The employer shall be responsible for all arrangements in connection with the election.

45. *Officers of the Committee.*—⁶[(1) The Committee shall have among its office-bearers a Chairman, a Vice-Chairman, a Secretary and a Joint Secretary. Such office-bearers shall be elected every year.]

(2) The Chairman shall be nominated by the employer from amongst the employer's representatives on the Committee.

(3) The Vice-Chairman shall be elected by the Committee from amongst the workmen and vice-versa:

⁷[(4) The Committee shall elect the Secretary and the Joint Secretary provided that where the Secretary is elected from among the representatives of the employer, the Joint Secretary shall be elected from among the representatives of the workmen and vice versa:]

Provided further that the post of the Secretary or the Joint Secretary, as the case may be, shall not be held by a representative of the employer or the workmen, for two consecutive years.]

46. *Term of office.*—(1) The term of office of a workmen's representative on the Committee other than a member chosen to fill a casual vacancy shall be two years.

(2) A member chosen to fill a casual vacancy shall hold office for the unexpired term of his predecessor.

47. *Vacancies.*—In the event of a workmen's representative ceasing to be employed in the establishment or in the event of his resigning the membership in the Committee, his successor shall be elected from the constituency to which the member vacating the seat belonged.

48. *Power to co-opt.*—The Committee shall have the right to co-opt in a consultative capacity persons employed in the establishment having a particular or special knowledge of a matter under discussion. Such co-opted members shall not be entitled to vote and shall be present at meetings only for the period during which the particular question is before the Committee.

49. *Number of meetings.*—The Committee may meet as often as necessary but not less often than once a month.

50. *Facilities for meetings, etc.*—The employer shall provide accommodation for holding meetings of the Committee. He shall also provide all necessary facilities to the Committee and to the members thereof for carrying out the work of the Committee.

⁸[50-A. *Dissolution of Works Committee.*—The Central Government, or where the power under section 3 has been delegated to any officer or authority under section 39, such officer or authority may, after making such inquiry as he or it may deem fit, dissolve any Works Committee at any time, by an order in writing, if he or it is satisfied that the Committee has not been constituted in accordance with these rules or that not less than

⁶ Subs. for former sub-rule (1) by *ibid.*, pub. in *ibid.*

⁷ Subs. for former sub-rule (4) by *ibid.*, pub. in *ibid.*

⁸ Inserted by Notification No. S.R.O. 2260 d-7.12.53; *vide* Gazette of India d-12.12.53, Pt. II-Sec. 3, p. 2009.

two-thirds of the number of representatives of the workmen have, without any reasonable justification, failed to attend three consecutive meetings of the Committee or that the Committee has, for any other reason, ceased to function :

Provided that where a Works Committee is dissolved under this rule, the employer, may, and if so required by the Central Government or, as the case may be, by such officer or authority, shall, take steps to re-constitute the Committee in accordance with these rules.]

PART VI.

MISCELLANEOUS.

51. *Memorandum of settlement.*—The memorandum of settlement to be submitted by the Conciliation Officer shall be in Form D.

⁹[51-A. *Complaints regarding change of conditions of service, etc.*—

(1) Every complaint under section 33A of the Act shall be presented in triplicate in Form DD, and shall be accompanied by as many copies of the complaint as there are opposite parties to the complaint.

(2) Every complaint under sub-rule (1) shall be verified at the foot by the employee making it or by some other person proved to the satisfaction of the Tribunal to be acquainted with the facts of the case.

(3) The person verifying shall specify, by references to the numbered paragraphs of the complaint, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(4) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.]

¹[51-B. *Application for permission under section 33.*—(1) An employer intending to obtain the express permission in writing of the conciliation officer, Board or Tribunal, as the case may be, under section 33 shall present an application in Form DDI in triplicate to such conciliation officer, Board or Tribunal and shall file along with the application as many copies thereof as there are opposite parties.

(2) Every application under sub-rule (1) shall be verified at the foot by the employer making it or by some other person proved to the satisfaction of the conciliation officer, Board or Tribunal to be acquainted with the facts of the case.

(3) The person verifying shall specify, by reference to the numbered paragraphs of the application, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(4) The verification shall be signed by the person making it and shall state the date on which and the place at which it was verified.]

⁹ Subs. by Notification No. S.R.O. 903 d/-1.3.54 for the original rule 51A which had been inserted by Notification No. S.R.O. No. 469 d/-7.3.52; vide *Gazette of India* d/-6.3.54, Pt. II-Sec. 3, p. 488.

¹ Inserted by Notification No. S.R.O. 1945 d/-17.11.52; vide *Gazette of India* d/-22.11.52, Pt. II-Sec. 3, pp. 1729-1730.

52. *Notice of strike.*—(1) The notice of strike to be given by employees in a public utility service shall be in Form E.

²[(2) On receipt of a notice of a strike under sub-rule (1), the employer shall forthwith intimate the fact to the Conciliation Officer having jurisdiction in the matter.]

53. *Notice of lock-out.*—The notice of lock-out to be given by an employer carrying on a public utility service shall be in Form F.

54. *Report of lock-out or strike.*—The report of a lock-out or strike in a public utility service to be submitted by the employer under sub-section (3) of section 22, shall be in Form G.

55. *Report of notice of strike or lock-out.*—The report of notice of a strike or lock-out to be submitted by the employer under sub-section (6) of section 22 shall be sent by registered post or given personally to the Conciliation Officer (Central) appointed for the local area concerned, with a copy by registered post to—

- (1) The Administrative Department of the Government of India concerned ;
- (2) The Regional Labour Commissioner (Central) for the Zone ;
- (3) Chief Labour Commissioner (Central) ;
- (4) Ministry of Labour of the Government of India ; and
- (5) The District Magistrate.

56. *Penalties.*—Any breach of these rules shall be punishable with fine not exceeding fifty rupees.

SCHEDULE.

Form A.

(See rule 3)

Form of application under sub-section (2) of section 10 of the Industrial Disputes Act, 1947, for the reference of an industrial Board of Conciliation.

Dispute to a Court of Inquiry.

Industrial Tribunal.

Whereas an industrial dispute ^{is apprehended} ~~exists~~ between.....
 and.....and it is expedient that ^{the matters specified in} ~~the dispute~~ the enclosed statement which are connected with or relevant to the

² Subs. for former sub-rule (2) by *ibid*; vide *ibid*.

dispute investigation and settlement
 ————should be referred for enquiry

adjudication
a Board of Conciliation

by a Court of Inquiry , an application is hereby made

an Industrial Tribunal
 under sub-section (2) of section 10 of the Industrial Disputes Act,
 1947, that the said matter should be referred to

said dispute
a Board of Conciliation

a Court of Inquiry This application is made by the under-

an Industrial Tribunal

has
 signed who ————been duly authorised to do so by virtue of a resolution
have
 (copy enclosed) adopted by a majority of the members present at a
 meeting of the held on the 19 ..

A statement giving the particulars required under rule 3 of the
 Industrial Disputes (Central) Rules, 1947 is attached.

Dated 19..

Signature of Applicant(s).

To

The Secretary to the Government of India,

Ministry of Labour.

Statement required under rule 3 of the Industrial Disputes (Central)
 Rules, 1947, to accompany the form of application prescribed under sub-
 section 2 of section 10 of the Industrial Disputes Act, 1947 :—

- (a) Parties to the dispute;
- (b) Specific matters in dispute;
- (c) Total number of workmen employed in the undertaking affected;
- (d) Estimate of the number of workmen affected or likely to be
 affected by the dispute;
- (e) Efforts made by the parties themselves to adjust the dispute.

Form B.

(See rule 6).

Whereas an industrial dispute has arisen between . . . and . . .

is apprehended
 and it is expedient to refer the said dispute under section 10

of the Industrial Disputes Act, 1947, to a Board of Conciliation for the purpose of investigating the same and for promoting a settlement thereof, you are hereby required to intimate to the undersigned not later than the the name(s) and address(es) of one (two) person(s) whom you wish to recommend for appointment as representative(s) on the said Board.

If you fail to make the recommendation by the date specified above the Central Government will select and appoint such person(s) as it thinks fit, to represent you.

Secretary to the Government of India,
Ministry of Labour.

Form C.

(See rule 15).

Whereas an industrial dispute between.....and.....
Board of Conciliation for investigation and

has been referred to this Court of Inquiry for

Industrial Tribunal for

settlement

investigation under section 10 of the Industrial Disputes Act, 1947

adjudication

Board

you are hereby summoned to appear before the Court in person on

Tribunal

the.....day of.....at.....O'clock in the.....noon
to answer all material questions relating to the said dispute and you
are directed to produce on that day all the books, papers and other docu-
ments and things in your possession or under your control in any way

Board

relating to the matter under investigation by this Court

Tribunal

Dated.....

Board of Conciliation.

Chairman/Secretary

Court of Inquiry.

Industrial Tribunal.

³[Form CC.

(See rule 30).

Before (here mention the authority concerned):

Reference No. of
 workmen
 VERSUS
 Employer.

In the matter of.....

I/We hereby authorise Shri.....
 to represent me/us in the above matter.

Dated this.....day of.....19 ..

Accepted,
 (Signature)

(Signature)
 Address:]

Address :

Form D.

(See rule 51).

Form of Memorandum of Settlement.

Names of parties.
 Representing employer.
 Representing employees.

Short recital of case.
 Terms of agreement.

Signature of Conciliation Officer

Board of Conciliation

Signatures of parties.

⁴[Form DD.

(See rule 51A)

Before the Industrial Tribunal.....Complaint under section
 33A of the Industrial Disputes Act, 1947.

A..... Complainant(s)

Address:—

Versus

B..... Opposite Party (ies)

Address:—

In the matter of Reference No.....

³ Inserted by Notification No. S.R.O. 468, d/- 7.3.52, pub. in Gazette of India, d/- 15.3.52, Pt. II—Sec. 3, pp. 453—54.

⁴ Subs. by Notification No. S.R.O. 503 d/- 1.3.54 for the original Form DD which had been inserted by Notification No. S.R.O. 469 d/- 7.3.52; vide Gazette of India d/- 6.3.54, Pt. II—Sec. 3, p. 488.

The petitioner(s) begs/beg to complain that the Opposite Party(ies) has/have been guilty of a contravention of the provisions of section 33 of the Industrial Disputes Act, 1947 (XIV of 1947), as shown below:—

(Here set out briefly the particulars showing the manner in which the alleged contravention has taken place and the grounds on which the order or act of the Management is challenged).

The complainant(s) accordingly prays/pray that the Tribunal may be pleased to decide the complaint set out above and pass such order or orders thereon as it may deem fit and proper.

The number of copies of the complaint and its annexures required by Rule 51A of the Industrial Disputes (Central) Rules, 1947, are submitted herewith.

Dated this day of 195 Signature of Complainant(s).
Verification

I do solemnly declare that what is stated in paragraphs.....above is true to my knowledge and that what is stated in paragraphs.....above is stated upon information received and believed by me to be true. This verification is signed by me at on day of 19 Signature [or Thumb Impression
of the person verifying.]

⁵ Form DDI.

(See rule 51B)

Before (here mention the conciliation officer, Board or Tribunal)

Application for permission under section 33 of the ⁶[Industrial Disputes Act, 1947 (XIV of 1947)], in the matter of Reference No.....]

A Applicant

Address(es):—

Veritas

B Opposite Party(ies)

Address(es):—

The abovementioned applicant begs to state as follows:—

(here set out the relevant facts and circumstances of the case and the grounds on which the permission is sought for)

⁵ Inserted by Notification No. S.R.O. 1945, d/- 17.11.52, pub. in Gazette of India, d/- 22.11.52, Pt. II—Sec. 3, pp. 1729—30.

⁶ Subs. for "Industrial Disputes Act, 1947 (XIV of 1947)" by Notification No. S.R.O. 803 d/- 1.3.54; vide Gazette of India d/- 6.3.54, Pt. II—Sec. 3, p. 488.

The applicant therefore prays that the express permission may kindly be granted to him to take the following action, namely:—

(here mention the action specified in clause (a) or clause (b) of section 33).

Signature of the applicant.

Dated this.....day of.....195 ..

Space for verification

(Signature of the person verifying)

Date (on which the verification was signed).....

Place (at which the verification was signed).....1

Form E.

(See rule 52.)

Form of notice of strike to be given by employee(s) in a public utility service.

Name of Union

Names of elected representatives of employees where no trade union exists.

Address:—

Dated this.....day.....19

To

(The name of the employer)

Dear Sir/Sirs,

In accordance with the provisions contained in sub-section (1) of section 22 of the Industrial Disputes Act, 1947, I/We hereby give you notice I propose to call a strike

that.....on.....19 .. for the reasons explained we propose to go on strike in the annexe.

Yours faithfully,

Secretary of the Union.

Representatives of the employees elected at a meeting held on.....

ANNEXE

Statement of the Case.

Copy to: (1) Conciliation Officer (Central).

(Here enter office address of the Conciliation Officer in the local area concerned.)

(2) Regional Labour Commissioner (Central) Zone.

(3) Chief Labour Commissioner (Central), New Delhi.

Form F.

(See rule 53).

Form of notice of lock-out to be given by an employer carrying on a Public Utility Service.

Name of Employer

Address :—

Dated the day of 19.

To

(The Secretary of the Registered Union, if any.)

Dear Sir,

In accordance with the provisions of sub-section (2) of section 22 of the
my

* Industrial Disputes Act, 1947, I/We hereby inform you that it is—
our
intention to effect a lock-out with effect from
for the reasons explained in the annexe.

Yours faithfully,

(Here insert the position which the person who signs this letter holds with the employer issuing this letter).

ANNEXE

Statement of the case.

Copy to: (1) Conciliation Officer (Central).

(Here enter office address of the Conciliation Officer in the local area concerned.)

(2) Regional Labour Commissioner (Central) Zone.

(3) Chief Labour Commissioner (Central), New Delhi.

FORM G.
(See Rule 54.)

FORM OF REPORT OF STRIKE OR LOCK-OUT IN A PUBLIC UTILITY SERVICE.

Information to be supplied in this form immediately on the occurrence of a strike or lock-out in a public utility service to the Conciliation Officer (Central) for the local area concerned.

1	2	3	4	5	6	7	8	9	10	11
Name of undertaking.	Station and District.	Normal working strength.	Number of workers involved.		Strike or lock-out.		Date of commencement of strike or lock-out.		Cause.	
			Directly.	Indirectly.						
							Was notice of strike or lock-out given? If so, on what date and for what period?		Is there any permanent agency or agreement in the undertaking for the settlement of disputes between the employer and workmen? If any exists, particulars thereof.	
									Any other information.	

Note:—Column (3). Give the average number of workmen employed during the month previous to the day on which the strike or lock-out occurred. While reckoning the average, omit the days on which attendance was not normal for reasons other than individual reasons of particular workmen. Those days on which strikes or lock-outs occurred or communal holiday is observed by a large section of workmen should be omitted.

Column (4). If, say, 200 workmen in a factory strike work and in consequence the whole factory employing 1,000 workmen has to be closed then 200 should be shown under "directly" and the remaining under "indirectly". If the strikes of 200 workmen does not affect the working of the other departments of the factory, the number of workmen involved would only be 200, which figure should appear under "directly" and column "indirectly" would be blank.

Column (8). Give the main causes of the disputes as well as the immediate cause that led to the strike or lock-out.

Form H.*(See Rule 41.)**Form of Nomination Paper.*

Name of Industrial Establishment . . . Group/Section/Shop/Department

I nominate

(Here enter the name of the workmen's representative eligible for election)

as a candidate for election to the Works Committee.

Signature of Proposer.

Date

I agree to the proposed nomination.

Signature of candidate.....

Date

To be signed by any two voters belonging to the electoral constituency.

Attested by (1)

(2)

THE INDUSTRIAL TRIBUNAL (PROCEDURE) RULES, 1949.¹

1. These rules may be called The Industrial Tribunal (Procedure) Rules, 1949.

2. The Industrial Tribunal constituted under the Ministry of Labour Notification No. LR—2(205), dated the 13th June, 1949, may entrust such cases or matters referred to it as it deems fit to one or more members for enquiry and report.

3. The report under rule 2 shall be submitted to the Chairman of the Tribunal. The Tribunal may withdraw any case or matter referred to one or more members under rule 2 and transfer the same to any other member or members.

4. The Tribunal shall, after considering the report and making such further enquiry as it deems fit, deliver its award.

5. For the purpose of making an enquiry under these rules, the member or members, as the case may be, shall have all the powers of the Tribunal under section 11 and the provisions of rules 14 to 21, 24, 30 and 31 shall apply to such enquiry as if the member or members were the Tribunal.

¹ See Ministry of Labour Notification No. LR-2 (245), dated 3rd December, 1949, pub. in Gazette of India, Extraordinary, dated 3rd December, 1949.

THE INDUSTRIAL TRIBUNAL (CENTRAL PROCEDURE) RULES, 1954¹.

1. These rules may be called the Industrial Tribunal (Central Procedure) Rules, 1954.

2. In these rules—

(a) "the Act" means the Industrial Disputes Act, 1947 (XIV of 1947);

(b) "Chairman" means the Chairman of the Tribunal;

(c) "member" means a member of the Tribunal;

(d) "section" means a section of the Act;

(e) "Tribunal" means the Industrial Tribunal constituted under section 7 consisting of two or more members.

²[3. In the case of a Tribunal where it consists of two or more members, the Chairman may sit alone or with one or more members to hear an application or complaint in writing under section 33 or section 33-A, as the case may be, for inquiry and report to the Tribunal or entrust any such application or complaint to one or more members, as he deems fit, for such inquiry and report.

4. The Chairman may withdraw any case or matters referred to one or more members under rule 3 and transfer the same to himself or any other member or members.

5. The report under rule 3, where the inquiry is made by one or more members, shall be submitted to the Chairman and where the inquiry is by the Chairman sitting alone or with one or more members, the report shall be submitted to the Tribunal:

Provided that in all cases, the final order on such application or complaint shall be passed by the Tribunal after taking into consideration the report submitted to it by the Chairman sitting singly or with one or more members or by any other member or members.]

6. The Tribunal shall, after considering the report submitted to the Chairman under rule 5 and making such further inquiry, if any, as it thinks fit, give its decision or award as the case may be.

³[7. For the purposes of making an enquiry under these rules, the Chairman or member or members, as the case may be, shall have all the powers of the Tribunal under section 11 and the provisions of rules 14 to 21, 24, 30 and 31 of the Industrial Disputes (Central) Rules, 1947, shall apply to such inquiry as if the Chairman or member or members by themselves constituted the Tribunal.]

¹ See Notification No. S.R.O. 1793, d/- 27.5.1954, pub. in Gazette of India, Extraordinary, d/- 27.5.54, Pt. II—Sec. 3, p. 925.

² Substituted respectively for original rules 3, 4 and 5 by Notification No. S.R.O. 3534, d/- 1.12.54; see Gazette of India, Extraordinary, d/- 2.12.54, Pt. II—Sec. 3, p. 2379.

³ Substituted for original rule 7 by *ibid*; see *ibid*.

THE INDUSTRIAL DISPUTES (APPELLATE TRIBUNAL) ACT, 1950.

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THE INDUSTRIAL DISPUTES (APPELLATE TRIBUNAL) ACT, 1950.¹

ACT XLVIII OF 1950.

[20th May, 1950.]

An Act to provide for the establishment of an Appellate Tribunal in relation to industrial disputes and for certain matters incidental thereto.

BE it enacted by Parliament as follows :—

CHAPTER 1.

PRELIMINARY.

1. *Short title and extent.*—(1). This Act may be called The Industrial Disputes (Appellate Tribunal) Act, 1950.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. *Definitions.*—In this Act, unless the context otherwise requires—

(a) 'Appellate Tribunal' means the Labour Appellate Tribunal constituted under section 4;

(b) 'Chairman' means the Chairman of the Appellate Tribunal;

(c) 'Industrial Tribunal' means—

(i) any Industrial Tribunal constituted under the Industrial Disputes Act, 1947 (XIV of 1947); or

(ii) in relation to cases where an appeal lies from any court, wage board or other authority set up in any State under any law relating to the adjudication of industrial disputes made, whether before or after the commencement of this Act, by the legislative authority of the State to any other court, board or authority set up in the State under such law, that court, board or authority exercising appellate jurisdiction within the State; or

(iii) in relation to other cases, where no appeal lies under any law referred to in sub-clause (ii), any court, board or other authority set up in any State under such law;

(d) 'member' means a member of the Appellate Tribunal;

(e) 'prescribed' means prescribed by rules made under this Act;

(f) 'wages' means all remuneration, capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment and includes—

(i) such allowances (including dearness allowance) as the workman is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light,

¹ For Statement of Objects and Reasons, see Gazette of India, dated 17th December, 1949, Pt. V, p. 447.

water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;

(iii) any travelling concession;

but does not include—

(i) any contribution paid or payable by the employer to any pension fund or provident fund;

(ii) any gratuity payable on discharge;

(g) the expressions 'appropriate Government', 'employer', 'lock out', 'strike' and 'workman' have the meanings respectively assigned to them in section 2 of the Industrial Disputes Act, 1947 (XIV of 1947).

3. *Effect on other laws.*—The provisions of this Act and of the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

CHAPTER II.

THE LABOUR APPELLATE TRIBUNAL AND ITS CONSTITUTION AND FUNCTIONS.

4. *Constitution of the Appellate Tribunal.*—The Central Government may, by notification in the Official Gazette and with effect from a date specified therein, constitute a Labour Appellate Tribunal for hearing appeals from the awards or decisions of industrial tribunals in accordance with the provisions of this Act.

5. *Composition of the Appellate Tribunal and term of office of its members.*—(1) The Appellate Tribunal shall consist of a Chairman and such number of other members as the Central Government may, from time to time, think fit to appoint.

(2) Every member of the Appellate Tribunal shall be a person who—

(a) is or has been a Judge of a High Court; or

(b) is qualified for appointment as a Judge of a High Court; or

(c) has been a member of an industrial tribunal for not less than two years:

Provided that the appointment to the Appellate Tribunal of any person not qualified under clause (a) or clause (c) shall be made in consultation with the Supreme Court.

(3) A member shall, unless otherwise specified in the order of appointment, hold office for a term of five years from the date on which he enters upon his office and shall, on the expiry of the term of his office, be eligible for re-appointment:

Provided that no member shall hold office after he has attained the age of sixty-five years.

(4) A member shall be entitled to such salary and allowances and to such rights in respect of leave and pensions as may be prescribed:

Provided that the salary of a member shall not be varied to his disadvantage after his appointment.

6. *Seat of the Appellate Tribunal.*—The Appellate Tribunal shall have its principal seat at such place as the Central Government may, by notification in the Official Gazette, appoint.

7. *Jurisdiction of the Appellate Tribunal.*—(1) Subject to the provisions of this section, an appeal shall lie to the Appellate Tribunal from any award or decision of an industrial tribunal if—

(a) the appeal involves any substantial question of law; or

(b) the award or decision is in respect of any of the following matters, namely :—

(i) wages,

(ii) bonus or travelling allowance,

(iii) any contribution paid or payable by the employer to any pension fund or provident fund,

(iv) any sum paid or payable to, or on behalf of, the workman to defray special expenses entailed on him by the nature of his employment,

(v) gratuity payable on discharge,

(vi) classification by grades,

(vii) retrenchment of workmen,

(viii) any other matter which may be prescribed.

(2) No appeal shall lie from—

(a) any award made by the Industrial Tribunal set up under the Industrial Disputes Act, 1947 (XIV of 1947), by the notification of the Government of India in the Ministry of Labour, No. L. R.-2 (205), dated the 13th June, 1949; or

(b) any award or decision of an industrial tribunal made with the consent of parties or from any settlement arrived at between the parties in the course of conciliation proceedings, whether before a conciliation officer or a conciliation board or any other authority or from any decision of an arbitrator appointed under any law with the consent of parties to settle the dispute.

8. *Constitution of Benches of the Appellate Tribunal.*—(1) The Chairman may constitute as many Benches of the Appellate Tribunal as may be deemed necessary for the purpose of carrying out the functions and exercising the powers of the Appellate Tribunal.

(2) Each Bench shall consist of not less than two members, of whom one may be appointed as the President of the Bench.

(3) A Bench shall sit at such place or places as may be specified by the Chairman by notification in the Official Gazette :

Provided that the Bench may, if it is satisfied that it will tend to the general convenience of the parties or witnesses in any particular case, sit at any other place.

(4) The Chairman may, from time to time, allot any case or any specified class of cases to any Bench and may also from time to time transfer any case or any specified class of cases from one Bench to another.

9. *Powers and procedure of the Appellate Tribunal.*—(1) The Appellate Tribunal shall have the same powers as are vested in a civil court,

when hearing an appeal, under the Code of Civil Procedure, 1908 (Act V of 1908).

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Appellate Tribunal may, after hearing the appellant, dismiss the appeal if, in its judgment, there is no sufficient ground for proceeding with the appeal and in such cases, the Appellate Tribunal shall briefly record its reasons for so doing.

(3) The Appellate Tribunal shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898) and any proceeding before an Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

(4) The Appellate Tribunal may, if it so thinks fit, appoint, after consulting the parties to the dispute and the appropriate Government, one or more persons as assessors to advise it in any proceeding before it.

(5) The Appellate Tribunal shall, after hearing the appeal, pronounce its decision either at once or on some future date to which the appeal is adjourned for that purpose.

(6) The decision shall be in writing and signed by the members of the Appellate Tribunal hearing the appeal.

(7) The Appellate Tribunal may confirm, vary or reverse the award or decision appealed from and may pass such orders as it may deem fit, and where the award or decision is reversed or varied, the decision of the Appellate Tribunal shall state the reliefs to which the Appellant is entitled.

(8) In the event of any difference of opinion among the members of a Bench, the opinion of the majority shall prevail, but where there is no such majority, the President of the Bench shall refer to the Chairman either the whole appeal or the particular point or points on which there has been difference of opinion among the members of the Bench and on such reference, the Chairman shall either hear the matter himself or transfer it to any other member and the decision thereon of the Chairman or the other member, as the case may be, shall prevail.

(9) The Appellate Tribunal shall send a copy of the decision to the industrial tribunal concerned and to the appropriate Government, as soon as practicable, within one week from the date of the decision.

(10) The Appellate Tribunal shall follow such procedure as may be prescribed, and subject thereto, it may, by order,² regulate its practice and procedure and the provisions of the Code of Civil Procedure, 1908 (Act V of 1908), shall so far as they are not inconsistent with this Act or the rules or orders made thereunder, apply to all proceedings before the Appellate Tribunal.

(11) Subject to the rules made under this Act, the costs of, and incidental to, any proceeding before the Appellate Tribunal shall be in

² For such orders made by the Labour Appellate Tribunal to regulate its practice and procedure, see Gazette of India, dated 11th August, 1951, Pt. III—sec. 1, p. 338, see also pp. 362-571, *infra*.

the discretion of the Appellate Tribunal, and the Appellate Tribunal shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid and to give all necessary directions for the purposes aforesaid, and such costs may be recovered in the manner provided for in sub-section (1) of section 20.

10. *Limitation for filing appeals.*—An appeal under this Act may be preferred within thirty days—

(i) from the date of the publication of the award or decision, where such publication is provided for by the law under which that award or decision is made; or

(ii) from the date of making the award or decision, where there is no provision for such publication;

Provided that the Appellate Tribunal may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

11. *Form of appeal.*—An appeal under this Act shall be presented in the form of a memorandum setting forth, concisely and under distinct heads, the grounds of objection to the award or decision appealed from.

12. *Presentation of appeal.*—An appeal under this Act against any award or decision of an industrial tribunal may be presented to the Appellate Tribunal by—

(i) any party which is aggrieved by the award or decision; or

(ii) the appropriate Government or the Central Government, where it is not the appropriate Government, whether or not such Government is a party to the dispute.

13. *Right of the Central Government and of the appropriate Government to appear before the Appellate Tribunal.*—The appropriate Government or the Central Government, where it is not the appropriate Government, may, whether or not such Government is a party to the appeal, appear in any proceeding before the Appellate Tribunal and thereupon, such Government shall have the right to be heard as if it were a party to that appeal.

14. *Stay of award or decision by the Appellate Tribunal.*—Where an appeal is preferred, the Appellate Tribunal may, after giving the parties an opportunity of being heard, stay, for reasons to be recorded, the implementation of the award or decision or any part thereof for such period and on such conditions as it thinks fit:

Provided that no such order for stay shall be made unless the Appellate Tribunal is satisfied that the implementation of the award or decision may have serious repercussions on the industry concerned or other industries or on the workmen employed in such industry or industries.

15. *Commencement of decision of the Appellate Tribunal.*—(1) The decision of the Appellate Tribunal shall be enforceable on the expiry of thirty days from the date of its pronouncement;

Provided that where the appropriate Government is of opinion that it would be inexpedient on public grounds to give effect to the whole or any part of the decision, the appropriate Government may, before the expiry

of the said period of thirty days, by order in the Official Gazette, either reject the decision or modify it.

(2) Where the appropriate Government rejects or modifies any decision under the proviso to sub-section (1), it shall, on the first available opportunity, lay that decision together with its reasons for rejecting or modifying the same before the Legislative Assembly of the State, or where the appropriate Government is the Central Government, before Parliament.

16. *Effect of decision of the Appellate Tribunal.*—Where on appeal from any award or decision of an industrial tribunal, the Appellate Tribunal modifies in any manner whatsoever that award or decision, the decision of the Appellate Tribunal shall, when it becomes enforceable under section 15, be deemed to be substituted for that award or decision of the industrial tribunal and shall have effect for all purposes in the same manner and in accordance with the same law under which the award or decision of the industrial tribunal was made as if the industrial tribunal made the award or decision as modified by the decision of the Appellate Tribunal.

17. *Commencement and conclusion of appeal.*—An appeal before the Appellate Tribunal shall be deemed to have commenced on the date of the filing of the appeal and such appeal shall be deemed to have concluded on the date on which the decision of the Appellate Tribunal becomes enforceable under section 15.

CHAPTER III.

CERTAIN PROVISIONS RELATING TO INDUSTRIAL TRIBUNAL SET UP UNDER OTHER LAWS.

18. *Commencement of award or decision of Industrial Tribunal.*—

(1) Subject to the provisions of this Act, the award or decision of any industrial tribunal shall, notwithstanding anything contained in any law, be enforceable on the expiry of thirty days—

(i) from the date of the publication of the award or decision, where such publication is provided for by the law under which that award or decision is made, or

(ii) from the date of making the award or decision, where there is no provision for such publication:

Provided that in cases where the award or decision is not appealable under this Act, and where the appropriate Government is a party to the dispute and is of opinion that it would be inexpedient on public grounds to give effect to the whole or any part of the award or decision, it may, before the expiry of the said period of thirty days, by order in the Official Gazette, either reject or modify the award or decision.

(2) Where the appropriate Government rejects or modifies any award or decision under the proviso to sub-section (1), it shall, on the first available opportunity, lay that award or decision together with its reasons for rejecting or modifying the same before the Legislative Assembly of the State, or where the appropriate Government is the Central Government, before Parliament.

(3) Subject to the provisions of sub-section (1) the award or decision of any industrial tribunal shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date on which that award or decision becomes enforceable under sub-section (1).

19. *Exclusion of certain period in the computation of the period of operation of any award or decision of industrial tribunal.*—In the computation of the period of operation of any award or decision of any industrial tribunal, the period during which the implementation of that award or decision is stayed by the Appellate Tribunal shall be excluded.

20. *Recovery of money due from an employer under an award or decision.*—(1) Any money due from an employer under any award or decision of an industrial tribunal may be recovered as arrears of land revenue or as a public demand by the appropriate Government on an application made to it by the person entitled to the money under that award or decision.

(2) Where any workman is entitled to receive from the employer any benefit under an award or decision of an industrial tribunal which is capable of being computed in terms of money, the amount at which such benefit should be computed may, subject to the rules made under this Act, be determined by that industrial tribunal, and the amount so determined may be recovered as provided for in sub-section (1).

(3) For the purpose of computing the money value of a benefit, the industrial tribunal may, if it so thinks fit, appoint a commissioner who shall, after taking such evidence as may be necessary, submit a report to the industrial tribunal, and the said tribunal shall determine the amount after considering the report of the commissioner and other circumstances of the case.

Bombay Am.—After sec. 20, the following section, in its application to the State of Bombay, was inserted by the Industrial Disputes (Appellate Tribunal) (Bom. Am.) Act, 1953 (Bom. XVI of 1953):—

"20A. *Application of section 20 to settlements of Conciliation Officers, Conciliators and Boards of Conciliation.*—The provisions of section 20 shall apply *mutatis mutandis* to the settlements made by the Conciliation Officers, Conciliators or Boards of Conciliation appointed or constituted under the Industrial Disputes Act, 1947 (XIV of 1947), or under the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947), and for the purpose of the said section 20 such settlements shall be deemed to be awards or decisions of Industrial Tribunals."

21. *Maintenance of records by industrial tribunals.*—Every industrial tribunal shall, in respect of any case from which an appeal would lie under this Act, maintain, subject to the rules made under this Act, a record of the proceedings before it including the statements of parties and witnesses and relevant documents.

CHAPTER IV.

MISCELLANEOUS.

22. *Conditions of service, etc., to remain unchanged during a certain period.*—During the period of thirty days allowed for the filing of an appeal

under section 10 or during the pendency of any appeal under this Act, no employer shall—

(a) alter, to the prejudice of the workmen concerned in such appeal, the conditions of service applicable to them immediately before the filing of such appeal, or

(b) discharge or punish, whether by dismissal or otherwise, any workmen concerned in such appeal,

save with the express permission in writing of the Appellate Tribunal.

23. Special provision for decision whether conditions of service, etc., changed during pendency of proceedings.—Where an employer contravenes the provisions of section 22 during the pendency of proceedings before the Appellate Tribunal, any employee aggrieved by such contravention, may make a complaint in writing, in the prescribed manner to such Appellate Tribunal and on receipt of such complaint, the Appellate Tribunal shall decide the complaint as if it were an appeal pending before it, in accordance with the provisions of this Act and shall pronounce its decision thereon and the provisions of this Act shall apply accordingly.

24. Prohibition of strikes and lock-outs.—Notwithstanding anything contained in any law for the time being in force, no workman who is employed in any industrial establishment shall go on strike and no employer of any such workman shall declare a lock-out—

(a) during the period of thirty days allowed for the filing of an appeal under section 10; or

(b) during the pendency of an appeal before the Appellate Tribunal.

25. Illegal strikes and lock-outs.—A strike or lock-out shall be illegal, if it is declared, commenced or continued in contravention of the provisions of section 24.

26. Penalty for illegal strikes and lock-outs.—(1) Any workman who commences, continues, or otherwise acts in furtherance of, a strike which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer who commences, continues, or otherwise acts in furtherance of lock-out which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees, or with both.

27. Penalty for instigation, etc.—Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out, which is illegal under this Act shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

28. Penalty for giving financial aid to illegal strikes and lock-outs.—Any person who knowingly expends or applies any money in furtherance or support of any strike or lock-out which is illegal under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. Penalty for other offences.—(1) Any employer who

contravenes the provisions of section 22 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees, or with both.

30. Powers of the Appellate Tribunal in relation to contempt.—

(1) If any person,—

(a) when ordered by an industrial tribunal or the Appellate Tribunal to produce or deliver up any document, being legally bound, intentionally omits to do so, or

(b) when required by an industrial tribunal or the Appellate Tribunal to bind himself by an oath or affirmation to state the truth, refuses to do so, or

(c) being legally bound to state the truth on any subject to an industrial tribunal or the Appellate Tribunal, refuses to answer any question put to him touching such subject by such industrial tribunal or the Appellate Tribunal, or

(d) refuses to sign any statement made by him when required to do so by an industrial tribunal or the Appellate Tribunal, or

(e) intentionally offers any insult or causes any interruption to an industrial tribunal or the Appellate Tribunal at any stage of its judicial proceeding,

he shall be deemed to be guilty of contempt of such industrial tribunal or the Appellate Tribunal, as the case may be.

(2) If any person commits any act or publishes any writing, which is calculated to improperly influence an industrial tribunal or the Appellate Tribunal or to bring such industrial tribunal or the Appellate Tribunal or any member thereof into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of any such industrial tribunal or the Appellate Tribunal, such person shall be deemed to be guilty of contempt of such industrial tribunal or the Appellate Tribunal, as the case may be.

(3) The Appellate Tribunal shall have and exercise the same jurisdiction, power and authority, in accordance with the same procedure and practice, in respect of contempt of itself and of all the industrial tribunals as the High Courts have and exercise in respect of themselves and courts subordinate to them under the Contempt of Courts Act, 1926 (XII of 1926)³.

31. Offence by companies, etc.—Where a person committing an offence under this Act is a company, or other body corporate, or any association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management

³ See now the Contempt of Courts Act XXXII of 1952 which has repealed Act XII of 1926.

thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

32. Cognizance of offences.—(1) No court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government or by an officer empowered in this behalf by such Government, by a general or special order.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

33. Representation of parties.—(1) A workman who is a party to an appeal shall be entitled to be represented in any proceeding under this Act by—

(a) an officer of a registered trade union of which he is a member;

(b) an officer of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;

(c) where the worker is not a member of any trade union, by an officer of any trade union connected with, or by any other workman employed in, the industry in which the worker is employed and authorised in such manner as may be prescribed.

(2) An employer who is a party to an appeal shall be entitled to be represented in any proceeding under this Act by—

(a) an officer of an association of employers of which he is a member;

(b) an officer of a federation of associations of employers to which the association referred to in clause (a) is affiliated;

(c) where the employer is not a member of any association of employers, by an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(3) A party to a proceeding under this Act may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Appellate Tribunal.

Bombay Am.—After sub-sec. (2), the following sub-section, in its application to the State of Bombay, was inserted by the Industrial Disputes (Appellate Tribunal) (Bombay Am.) Act, 1954 (Bom. LXV of 1954):—

"(2-A) Notwithstanding anything contained in sub-sections (1) and (2), in any appeal under this Act against the award or decision of an industrial tribunal set up under the Bombay Industrial Relations Act, 1946, the provisions of Chapter V of the said Act, in so far as they relate to the parties to any proceedings and appearance on their behalf, shall apply *mutatis mutandis* to the representation of parties in the proceedings under this Act:

Provided that the parties to such award or decision shall, either by themselves or through their representatives referred to in sub-section (2) be, subject to the said sub-section, entitled to appear in any proceedings under this Act."

34. Amendment of Act XIV of 1947.—The Industrial Disputes Act, 1947 (XIV of 1947), shall be amended in the manner specified in the Schedule.

35. Power to make rules.—(1) The Central Government may, by

notification in the Official Gazette, make rules⁴ for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which an appeal may be preferred and the form of appeal; the matters in respect of which the Appellate Tribunal may have jurisdiction;

(b) the fees to be paid and the procedure to be followed in relation to such appeal;

(c) costs, and the manner in which they may be recovered;

(d) the persons who may be appointed as commissioners under section 20, their powers and duties and fees, if any, to be paid to the commissioners;

(e) the records to be maintained under section 21 and the manner in which they will be maintained;

(f) the manner in which workmen or employers may be represented before the Appellate Tribunal;

(g) any other matter which has to be or may be prescribed.

THE SCHEDULE.

(See section 34.)

[Amendments to the Industrial Disputes Act, 1947, are not reproduced here as they have been incorporated in Act XIV of 1947.]

THE INDUSTRIAL DISPUTES (APPELLATE TRIBUNAL) RULES, 1951¹.

1. *Short Titles.*—These rules may be called the Industrial Disputes (Appellate Tribunal) Rules, 1951.

2. *Definition.*—In these rules,—

(a) "Act" means the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950);

(b) "Form" means a form appended to these rules;

(c) "Section" means a section of the Act;

(d) "Tribunal" means the Labour Appellate Tribunal constituted by the Central Government under section 4 of the Act; and includes where the context so requires a Bench of the Tribunal constituted under section 8(f) of the Act.

(e) "Chairman" means the Chairman of the Tribunal;

(f) "Registrar" means the person who for the time being is discharging the functions of the Registrar of the Tribunal.

⁴ For such rules, viz., 'The Industrial Disputes (Appellate Tribunal) Rules, 1951, see Ministry of Labour Notification No. S.R.O. 1551, d/- 1.10.51, pub. in Gazette of India, d/- 6.10.51, Pt. II—Sec. 3, pp. 1801—1806 and also see pp. 551-561, *Infra*.

¹ See Notification No. S.R.O. 1551, d/- 1st October, 1951, pub. in Gazette of India, d/- 6th October, 1951, Pt. II—Sec. 3, pp. 1801—1806.

3. *Form of appeal.*—Every appeal shall be preferred to the Tribunal in Form A and shall be signed by the appellant or his authorised agent.

NOTE.—A party shall not be allowed to file a memorandum of cross-objections.

²[3-A. *Description of parties in certain cases.*—Where in any appeal or proceeding before the Tribunal, there are numerous persons arrayed on any side they shall be described as follows:—

(1) all such persons as are members of any union or association shall be described by the name of such union; and

(2) all such persons as are not the member of any union or association shall be described in such manner as the Tribunal may direct.]

4. *Presentation.*—(1) A memorandum of appeal to the Tribunal may be presented in person or by an authorised agent to the Registrar or to an Officer authorised in this behalf by the Chairman or by the Registrar with the approval of the Chairman at the seat of the Tribunal within the region from which the appeal arises or sent by registered post acknowledgment due addressed to the Registrar or such Officer to that place.

(2) Where a memorandum of appeal is sent by registered post an acknowledgment of its receipt shall be sent to the appellant by registered post specifying the date of receipt.

(3) Every memorandum of appeal shall be presented in triplicate and shall be accompanied by—

(a) either a copy of the gazette in which the award or decision appealed from has been published or by a certified copy of such award or decision, and two other typed copies thereof;

(b) as many copies of the memorandum of appeal as there are respondents for service on the respondents; and

(c) a fee of Rs. 25.

Provided that the Tribunal may at its discretion and subject to such conditions as it may impose, accept a memorandum of appeal which is not accompanied by the documents referred to above. But the appeal shall not be registered till the conditions imposed are complied with.

NOTE.—The provisions of Order XLIV of the Code of Civil Procedure will not be applicable.

5. *Date of presentation.*—Where a memorandum of appeal is presented, the Registrar or other authorised officer shall endorse thereon the date of its presentation :

Provided that where a memorandum of appeal is sent by registered post, it shall be deemed to have been presented on the day on which it is received in the office of the Registrar or, as the case may be, in the office of the authorised officer.

6. *Signature on Memorandum.*—In the case of an appeal by a corporation, the memorandum of appeal may be signed by the Secretary or by any Director or other principal officer of the Corporation, and in the

² Rule 3A added by Notification No. S.R.O. 818, d/- 28.4.53, pub in Gazette of India, d/- 2.5.53, Pt. II-Sec. 3, pp. 559-560.

case of an appeal by a firm, a memorandum of appeal may be signed by any partner of the firm.

7. *Signature by authorised representative.*—(1) Where a memorandum of appeal is signed by an authorised agent of the appellant such agent shall annex to it the document constituting his authority and his acceptance of it.

(2) A Court Fee of Re. 1 shall be payable in respect of every such document.

8. *Amendment of Memorandum of Appeal.*—(1) Where a memorandum of appeal is not drawn up in the manner prescribed, the Tribunal shall return it to the appellant for amendment then and there or within a time to be fixed by the Tribunal.

(2) The Tribunal may for sufficient cause extend the time so fixed whether before or after its expiry.

(3) If the memorandum of appeal is not amended by the appellant as directed by the Tribunal, or within the time allowed by it, it shall be rejected.

(4) Where a memorandum of appeal is amended the Tribunal or such officer as it may appoint in this behalf sign or initial such amendment.

9. *Preliminary hearing of the Appeal.*—Where the Tribunal chooses to proceed under sub-section 2 of Section 9 of the Act, it shall fix the date, time and place of the hearing of the appeal and shall notify the same to the appellant. Such notice shall be given by registered post.

10. *Service of the notice of appeal.*—(1) Where the Tribunal does not choose to proceed under sub-section (2) of section 9 of the Act or does not dismiss the appeal under that section, it shall fix a date, time and place for the hearing of the appeal and notify the same to the appellant by registered post. It shall also serve on the respondent a notice in Form 'B' specifying the date, time and place of the hearing of the appeal.

(2) Notice of the date fixed under sub-rule (1) shall be affixed in the premises where the Tribunal sits.

11. *Manner of service on the respondent.*—^{2a}[Subject to the provision of rule 11A, a notice of the date fixed] under rule 10 shall be served on the respondent by registered post or in the manner provided for the service on a defendant of a summons under the Code of Civil Procedure if the Tribunal so directs.

NOTE.—Refusal to accept notice sent by registered post may be taken to be sufficient service.

³[11A. *Manner of service in the case of numerous appellants or respondents.*—(1) Where there are numerous persons as appellants or respondents in any appeal before the Tribunal and such persons are members of any union or association the service of notice on the Secretary, or where

^{2a} Subs. for "(1) Notice of the date fixed" by Notification No. S.R.O. 2818, d/- 19.8.54; see Gazette of India, d/- 29.8.54, Pt. II-Sec. 3, p. 2134.

³ Rule 11A added by Notification No. S.R.O. 518 d/- 28.4.53, pub. in Gazette of India, d/- 2.5.53, Pt. II-Sec. 3, p. 500.

there is no Secretary, on the principal officer, of the union or association shall be deemed to be service on such persons.

^{3a}[(2) Where there are numerous persons in any appeal before the Tribunal as appellants or as respondents who are not members of any union or association, the Tribunal shall, where personal service is not practicable, cause the service of any notice to be made by affixing the same to a notice board at or near the main entrance of the establishment concerned.]

(3) The provisions of sub-rules (1) and (2) shall, as far as practicable, apply to the parties in any other proceeding before the Tribunal.]

12. *Dismissal for default and ex parte hearing.*—(1) Where on the date fixed for hearing or any other date to which the hearing may be adjourned the appellant or his authorised agent does not appear when the appeal is called on for hearing the Tribunal may make an order that the appeal be dismissed.

(2) Where the appellant or his authorised agent appears but the respondent or his authorised agent does not appear, the appeal may be heard *ex parte*.

13. *Procedure on hearing.*—(1) On the date fixed or any other date to which the hearing may be adjourned, the appellant shall be heard in support of the appeal.

(2) The Tribunal shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

14. *Restoration of appeal and setting aside ex parte decision.*—(1) The Tribunal may, for sufficient cause, set aside after notice to the opposite party the order of dismissal of the appeal for default of appearance or the *ex parte* decision, either wholly or in part as the case may be, on an application made within fifteen days of the order of dismissal or of the *ex parte* decision, as the case may be. The Tribunal may extend the time on sufficient cause being shown.

(2) Such an application must be supported by an affidavit.

15. *Power to adjourn hearing and direct persons interested to be added as parties.*—(1) Where it appears to the Tribunal at the hearing that any person who was a party to the proceedings relating to the award or decision appealed from but who has not been made a party to the appeal is interested in the result of the appeal, or

Where a party to the appeal dies during the pendency of the appeal and the Tribunal is of opinion that his legal representative is interested in the subject matter of the appeal or in a part thereof, the Tribunal may adjourn the hearing to a future date to be fixed by it and direct such person or the legal representative of a deceased party, as the case may be, to be made a party to the appeal.

(2) Where during the pendency of an appeal, an assignment, transfer or devolution of any interest in the subject matter of the appeal has taken

^{3a} Subs. for sub-rule (2) by Notification No. S.R.O. 2818, d/- 19.8.54, see Gazette of India, d/- 28.8.54, Pt. II-Sec. 3, p. 2124.

place, the appeal may be continued by leave of the Tribunal by or against the person to or upon whom such interest has been assigned, transferred or devolved.

16. Power of the Tribunal to take additional evidence.—(1) The parties to the appeal shall not be entitled to adduce additional evidence, whether oral or documentary, before the Tribunal except where the Industrial Tribunal has refused to admit that evidence or decided the case without giving reasonable opportunity to the party to adduce it.

(2) If the Tribunal considers such evidence to be material it may either take such evidence or direct the Industrial Tribunal from whose award or decision the appeal is preferred or any other Industrial Tribunal to take such evidence and send it when taken to the Tribunal.

17. (1) The Tribunal may at any stage of the appeal call for and admit such additional evidence as it may consider necessary or direct the Industrial Tribunal from whose award or decision the appeal is preferred or any other Industrial Tribunal to take such evidence and send it when taken to the Tribunal.

(2) The Tribunal shall record its reasons for admitting the additional evidence.

18. Order on appeal.—(1) The Tribunal may after hearing the parties, pronounce judgment either at once or at some future date of which notice shall be given to the parties.

(2) If the delivery of the judgment is postponed to a future date it shall not be necessary for all the members of the Tribunal who heard the appeal to sit together for the delivery of the judgment and any one member thereof shall be entitled to deliver the judgment in the absence of the other or others provided that it is previously signed by the absentee member or members of the Tribunal who heard the appeal.

19. Every complaint under section 23 of the Act shall be presented in Form E appended to these Rules and shall be supported by an affidavit regarding the facts stated sworn in the manner provided for by the Rules made by the Tribunal under sub-section (10) of section 9 of the Act. It shall also be accompanied by three copies of the complaint and annexures for the use of the Tribunal and as many copies of the same as there are opposite parties to the complaint.

⁴**19A. Application for permission under section 22.**—(1) An employer intending to obtain the express permission in writing of the Appellate Tribunal under section 22 shall present an application in Form F in triplicate to the Tribunal and shall file along with the application as many copies thereof as there are opposite parties.

(2) Every application under sub-rule (1) shall be verified at the feet by the employer making it or by some other person proved to the satisfaction of the Tribunal to be acquainted with the facts of the case.

(3) The person verifying shall specify, by reference to the numbered

⁴ Inserted by Notification No. S.R.O. 1182 d/- 12.5.53, pub. in Gazette of India, d/- 20.5.53, Pt. II—Sec. 3, p. 889.

paragraphs of the application, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(4) The verification shall be signed by the person making it and shall state the date on which and the place at which it was verified.]

20. Costs ordered to be paid by the Appellate Tribunal or the Industrial Tribunal by any party shall be recoverable as arrears of land revenue or as public demand.

21. A Court Fee of Re. 1 shall be paid in respect of every affidavit filed before the Tribunal.

⁵[21A. Authority before whom affidavit may be sworn.—Affidavits for the purpose of any cause, appeal or matter before the Tribunal may be sworn before any authority mentioned in section 139 of the Code of Civil Procedure, 1908 (Act V of 1908) or before an officer of the Tribunal generally or specifically authorised in that behalf by the Tribunal on payment of such fees as the Tribunal may specify.]

22. Every person who is summoned and duly attends as a witness before the Tribunal, shall be entitled to an allowance for meeting his travelling and other expenses according to the scale for the time being in force with respect to witnesses in civil courts, in the State where the appeal is heard.

23. A summons issued by the Tribunal requiring any person to give evidence and/or to produce before it any books, papers or other documents and things in his possession or under his control in any way relating to the matter under appeal before the Tribunal which it thinks necessary for the purpose of such appeal shall be in Form 'C'.

24. Any notice, summons, process or order issued by the Tribunal may be served by registered post.

25. Any worker or employer desirous of being represented by another under sections 33 (1) (c) and 33 (2) (c) respectively of the Act shall authorise such other person in writing in Form 'D'.

26. The Tribunal may correct clerical mistakes or errors arising from an accidental slip or omission in its decision.

27. The language of the Tribunal shall be English.

28. (1) Copying fees shall be charged as follows:—

(a) For the first 200 words or less, 12 annas.

(b) For every additional 100 words or fraction thereof, 6 annas.

(2) For certifying a copy a fee of Re. 1/- shall be payable.

(3) Copying and certifying fee shall be paid in advance in cash.

(4) Where a party applies for immediate delivery of a copy, the fees chargeable shall be 50 per cent. more than that specified in sub-rule (1).

⁶[29. Where it is necessary to appoint a commissioner under sub-section (3) of section 20 of the Act, the industrial tribunal may appoint a person with experience in the particular industry, trade or business

⁵ Inserted by Notification No. S.R.O. 424 d/- 28.3.53, pub. in Gazette of India, d/- 4.4.53, Pt. II—Sec. 3, p. 434.

⁶ Rules 29 to 37 inserted by Notification No. S.R.O. 3054 d/- 7.9.54, see Gazette of India, d/- 18.9.54, Pt. II—Sec. 3, pp. 2276—2277.

involved in the industrial dispute or a person with experience as a judge of a civil court, or as a stipendiary magistrate or as a member of an industrial court or industrial tribunal or as a judge of a labour court, or as a registrar or secretary of an industrial court or industrial tribunal.

30. The industrial tribunal shall, after consultation with the parties, estimate the probable duration of the enquiry and fix the amount of the commissioner's fees and other incidental expenses and direct the payment thereof, into the nearest treasury, within a specified time, by such party or parties and in such proportion as it may consider fit. The commission shall not issue until satisfactory evidence of the deposit into the treasury of the sum fixed is filed before the industrial tribunal:

Provided that the industrial tribunal may, from time to time, direct that any further sum or sums be deposited into the treasury within such time and by such parties as it may consider fit:

Provided further that the industrial tribunal may, in its discretion, extend the time for depositing the sum into the treasury.

31. (1) Every order for the issue of a commission shall appoint a date, allowing sufficient time, for the commissioner to submit his report.

(2) If for any reason the commissioner anticipates that the date fixed for the submission of his report is likely to be exceeded, he shall apply, before the expiry of the said date, for extension of time setting forth the grounds thereof and the industrial tribunal shall take such grounds into consideration in passing orders on the application:

Provided that the industrial tribunal may grant extension of time notwithstanding that no application for such extension has been received from the commissioner within the prescribed time limit.

(3) The industrial tribunal may, at any time, for reasons to be recorded in writing, vary the amount of the commissioner's fees in consultation with the parties.

(4) The industrial tribunal may direct that the fees shall be disbursed to the commissioner in such instalments and on such dates as it may consider fit.

(5) The undischarged balance, if any, of the sum deposited shall be refunded to the party or parties who deposited the sum in the same proportion as that in which it was deposited.

32. In any industrial dispute in which the industrial tribunal deems a local investigation to be requisite or proper for the purpose of computing the money value of a benefit, the industrial tribunal may issue a commission to a person referred to in rule 29 directing him to make such investigation and to report thereon to it.

33. (1) The commissioner after such local inspection as he deems necessary and after reducing to writing the evidence taken by him, shall return such evidence together with his report in writing signed by him to the industrial tribunal.

(2) The report of the commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the industrial dispute and shall form part of the record of the proceedings in the industrial

dispute; but the industrial tribunal or, with the permission of the industrial tribunal, any of the parties to the industrial dispute may examine the commissioner personally before the industrial tribunal regarding any of the matters referred to him or mentioned in his report, or as to his report, or as to the manner in which he has made the investigation.

(3) Where the industrial tribunal is for any reason dissatisfied with the proceedings of the commissioner it may direct such further enquiry to be made as it shall think fit.

34. Any commissioner appointed under these rules, may unless otherwise directed by the order of appointment—

(a) examine the parties themselves and any witnesses whom they or any of them may produce, and any other person whom the commissioner thinks proper to call upon to give evidence in the matter referred to him;

(b) call for and examine documents and other things relevant to the subject of enquiry;

(c) at any reasonable time enter upon or into any land or building mentioned in the order.

35. (1) The provisions of the Code of Civil Procedure, 1908 (Act V of 1908), relating to the summoning, attendance, examination of witnesses and penalties to be imposed upon witnesses, shall apply to persons required to give evidence or to produce documents before the commissioner under these rules.

(2) Every person who is summoned and appears as a witness before the commissioner shall be entitled to payment by the Tribunal out of the sum deposited under rule 30, of an allowance for expenses incurred by him in accordance with the scale for the time being in force for payment of such allowance to witnesses appearing in the Civil Courts.

36. The parties to the industrial disputes shall appear before the commissioner, either in person or by any other person who is competent to represent them in the proceedings before the tribunal.

37. In all matters connected with the execution of the commission, the commissioner shall be deemed to be a tribunal and a public servant.]

HONOURABLE LABOUR APPELLATE TRIBUNAL

FORM 'A'

Before the Honourable Labour Appellate Tribunal [Constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950.]

Memorandum of Appeal to the Tribunal

Appeal No. of 195 .

A Appellant/s
Address:—

Versus

B Respondent/s
Address:—

In the matter of the appellant/s above named
beg/s to appeal against the award or decision of

made on.....in the above matter on the following amongst other grounds:—

1. That.....
2. That.....etc.

Certified copy of the award or decision appealed against (together with two spare copies) is enclosed herewith.

(1) Signature or thumb-impression of appellant's

Date.....

I/the appellant/s does/do solemnly declare that what is stated in paragraph.....above is true to my knowledge, in paragraph.....to my belief and in paragraph.....to my information. This verification is signed at.....on.....day of.....195 ,

(2) Signature or thumb-impression of appellant/s or his/their authorised representative

agent

Drafted by
Place.

Signature etc.

HONOURABLE LABOUR APPELLATE TRIBUNAL FORM 'B'

To

.....
.....

TAKE NOTICE that an appeal from the award or.....decision of.....has been presented by.....and registered in this Tribunal and that the.....day of.....195.....has been fixed by this Tribunal for the hearing of this appeal at.....O'clock.....at.....

If no appearance is made on your behalf by yourself or by your authorised representative, it will be heard and decided in your absence.

Registrar

Dated.....

LABOUR APPELLATE TRIBUNAL

HONOURABLE LABOUR APPELLATE TRIBUNAL FORM 'C'

Appeal from the.....of Industrial Tribunal of dated theAppellant/s

versus

.....Respondent/s.

Whereas the above appeal has been presented to this Tribunal and whereas your attendance is required, you are hereby summoned to appear before this Tribunal in person on the..... day of..... at..... O'clock at..... to answer all material questions relating to the said appeal and you are directed to produce on that day all the books, papers and other documents and things in your possession or under your control in any way relating to the matter under appeal before this Tribunal.

Registrar

Dated.....

LABOUR APPELLATE TRIBUNAL

HONOURABLE LABOUR APPELLATE TRIBUNAL

FORM 'D'

Appeal No. of
 Appellant/s
 versus
 Respondent/s
 In the matter of.....

To

The Registrar,
 Labour Appellate Tribunal

Dear Sir,

Be pleased to note that I/we have appointed Mr. to appear for me/us in the above matter.

Dated this day of 195 ..

Yours Faithfully,
 (Signature)
 Address :

Accepted,

(Signature)
 Address :

HONOURABLE LABOUR APPELLATE TRIBUNAL

FORM 'E'

Before the Honourable Labour Appellate Tribunal

Complaint under section 23 of the Industrial Disputes (Appellate Tribunal) Act, 1950.

A Complainant(s)
 Address:—

versus

B Opposite Party (ies)

*Portions not required, to be deleted while issuing the Summons.

Address:—

In the matter of the Award or Decision of.....made on
.....in the above matter.

The petitioner(s) beg(s) to complain that the Opposite Party(ies) has/have been guilty of the contravention of the provisions of Section 22 of the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950) as shown below.

(Here set out in short paragraphs particulars showing the manner in which the alleged contravention has taken place and the grounds on which the order or act of the Management is challenged.)

The complainant(s) accordingly pray(s) that the Honourable Tribunal may be pleased to decide the complaint set out above and pass such order or orders as to it may deem fit and proper.

The number of copies of the complaint and its annexures required by Rule 19 of the Industrial Disputes (Appellate Tribunal) Rules, 1951, are submitted herewith.

(Signed)

Dated.....this.....day of.....195 ..

^a[FORM 'F'

(See rule 19A)

BEFORE THE LABOUR APPELLATE TRIBUNAL

Application for permission under section 22 of the Industrial Disputes (Appellate Tribunal) Act, 1950.

A.....Applicant (address).....

versus

B.....Opposite Party(ies) (address).....

The above mentioned applicant begs to state as follows:—

(Here set out the relevant facts and circumstances of the case and the grounds on which the permission is sought for).

The applicant therefore prays that express permission may kindly be granted to him to take the following action, namely:—

[Here mention the action specified in clause (a) or clause (b) of section 22.]

Signature of the applicant

Dated.....this.....day of.....195 ..

Space for verification

(Signature of the person verifying)

.....
Date (on which the verification was signed).....

Place (at which the verification was signed).....]

^a Inserted by Notification No. S.P.O. 1182, d/- 12.6.53, pub. in *Gazette of India*, d/- 20.6.53, Pt. II—Sec. 3, pp. 889-890.

**ORDERS REGULATING PRACTICE AND PROCEDURE
OF THE
LABOUR APPELLATE TRIBUNAL OF INDIA¹.
ORDER I**

1. Memoranda of appeals, applications, affidavits and all papers to be filed in or to be used before the Tribunal shall be typed on one side only on stout foolscap paper with double spacing and a two-inch margin.

2. All applications must be in writing:—

NOTE.—‘Writing’ shall include typing, printing, lithography or script mechanically reproduced.

3. All applications must be supported by affidavits unless the facts stated therein appear from the record of the case.

4. (1) Affidavits containing statements of facts shall be divided into paragraphs consecutively numbered, and, as nearly as may be, each paragraph shall be confined to a distinct portion of the subject.

(2) Every person making an affidavit shall be described in such manner as to serve to identify him clearly, e.g., full name, father’s name and place of residence, and must be properly identified.

NOTE.—The person identifying the deponent shall be known to the officer before whom the affidavit is being sworn.

(3) Facts within the knowledge of the deponent must be affirmed as being true to his knowledge, facts true to his information must be affirmed as such, the source of information being disclosed, and facts true to his belief must be affirmed as such.

5. Affidavits filed before the Tribunal shall have every page of the documents forming part of, or referred to, in the affidavits signed, and all corrections and additions made in the said documents initialled, by the officer or authority before whom they are sworn.

6. No affidavit, wheresoever sworn, shall be accepted in the Tribunal’s office unless it complies with the requirements of Rules 4 and 5 of this Order.

7. Counter-affidavits shall be allowed to be used only if twenty-four hours’ notice thereof has been given by the party desiring to use such counter-affidavits to the other side.

8. An application for stay of implementation of an award or decision and all other applications shall be filed and moved at the place where the appropriate Bench of the Tribunal is for the time being holding its sittings.

Explanation.—‘Appropriate Bench of the Tribunal’ means the Bench taking cases from the region from which the appeal arises.

¹ These Orders were made by the Labour Appellate Tribunal of India under sub-section (10) of section 9 of the Industrial Disputes (Appellate Tribunal) Act 48 of 1950. See Gazette of India, dated 11th August, 1951, Pt. III—Sec. 1, p. 338.

9. An application for stay of the implementation of an award or decision appealed from shall be moved as expeditiously as possible and at the earliest opportunity after the presentation of the memorandum of appeal.

10. All applications, except applications for extension of time to file an appeal, shall ordinarily be moved on notice to the opposite party given by the applicant, such notices shall specify the date and the time when, and the place where, the application is intended to be moved and must be accompanied by a copy of the application and its annexures, if any, and in the case of an application for stay of the implementation of an award or decision, also by a copy of the memorandum of appeal and of the award and decision. The applicant shall also send intimation to the office of the Tribunal about the date, time and place where the application is intended to be moved two working days before it is moved.

11. (1) Where on account of urgency or other sufficient cause, an application for stay of implementation of an award or decision appealed from cannot be moved with previous notice given by the applicant to the opposite party, the Tribunal may issue a rule nisi, with or without stay, and subject to such conditions as it may think fit to impose.

(2) In such a case as many copies of the application and its annexures, if any, as there are parties to be served, shall be filed by the applicant within twenty-four hours of the passing of the Tribunal's order and the Tribunal's office should serve the same together with a copy of the rule nisi on each of the opposite parties by registered post.

The Tribunal may also require the applicant to serve the same on the opposite party within a time to be fixed by it.

12. (1) No notice need be served by the appellant on the respondent where the application is solely for the purpose of obtaining of time for filing an appeal, but the applicant shall file with the memorandum of appeal, the number of spare copies of the application required for service on the respondents and the Tribunal's office shall serve such copies on the respondents along with the notice of registration of appeal.

(2) The Tribunal may, unless it thinks fit to issue notice of such application to the respondent, grant it *ex parte*.

13. All notices required to be served on parties by the Act, the Rules of the Central Government or by these Orders shall, unless the Tribunal otherwise directs, be served by Registered Post.

14. An application for adducing additional evidence before the Tribunal shall be accompanied in original by the documents and papers intended to be used as additional evidence. A copy of the application and its annexures shall be served by the applicant on the opposite party at least a week before the date fixed for the hearing of the appeal.

15. Unless otherwise provided by the rules in these Orders, or ordered by the Tribunal, an application or affidavit of which previous notice is required to be given by a party to the opposite party, will not be allowed to be moved unless seventy-two hours' clear notice has been given to the opposite party.

16. A party intending to use at the hearing of an appeal any

document or paper not already among the papers furnished to the Tribunal and the opposite party, shall prepare and file before the date of hearing three typed copies thereof, or of a translation in the English language as the case may be, for the use of the Tribunal. He must also serve a copy thereof on the other party before the hearing commences.

ORDER II.

1. The Benches of the Tribunal shall ordinarily sit from 11 A.M. to 1-30 P.M. and 2 P.M. to 4-30 P.M. on all days except Saturdays, Sundays and Holidays.

2. The office hours shall be such as the Chairman may from time to time direct.

3. The holidays and vacations to be observed by the Tribunal shall be such as the Tribunal may from time to time, with the approval of the Central Government, fix.

4. The Registrar shall be in administrative control of the Tribunal's offices and the officers in immediate charge of such offices shall be responsible to the Registrar and he to the Chairman for their efficient administration.

5. The office rooms are not open to the public. Information regarding cases shall be supplied on written applications and under the orders of a Gazetted Officer only. Where information cannot be furnished briefly the party concerned shall be asked to obtain a copy of the document or documents from which the information is available on payment of the prescribed copying fees.

6. Bonafide parties or their representatives may interview any Gazetted Officer of the Tribunal during office hours on official business. They may also, on being permitted to inspect records, carry out inspection in the presence of an officer of the Court specially appointed for the purpose by the Registrar.

Parties inspecting records under this Rule or before the Tribunal shall not be allowed to take copies of any document but may take short notes for purposes of referring to the document or applying for copies thereof.

7. All official correspondence meant for the Tribunal shall be addressed to the Registrar by designation.

In the absence of the Registrar, the Deputy Registrar or Assistant Registrar, as the case may be, shall open and deal with such correspondence.

8. The Registrar, and in his absence, the Deputy Registrar, shall have a list made out of the appeals filed, according to the order in which they are received and have them marked serially and entered in a Register to be maintained for the purpose.

9. Applications shall be separately numbered and entered in a separate Register but after being so numbered, and entered, applications relating to matters pending before the Tribunal or disposed of by it shall be placed and dealt with the records of the appeals or other proceedings to which they relate, cross references being given in the Registers of Appeals and Applications.

ORDER III.

1. The Tribunal may, for sufficient cause shown, excuse the parties

from compliance with any of the requirements of these Rules, and may give such directions in matters of practice and procedure as it shall consider just and expedient.

2. An application, to be excused from compliance with the requirements of any of the Rules, shall be addressed in the first instance to the Registrar, who shall take the instructions thereon of the Tribunal and communicate the same to the parties, but if in his opinion it is desirable that the application should be dealt with in open Court, he may direct the applicant to lodge it in the Registry and to serve the other parties with a notice of motion returnable before the Tribunal.

3. The Tribunal may enlarge or abridge any time appointed by these Rules, or fixed by any order enlarging time for doing of any act or taking a proceeding upon such terms (if any) as the justice of the case may require, and any enlargement may be ordered although the application therefor is not made until after the expiration of the time appointed or allowed.

4. Nothing in these Rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

ORDER IV.

I. Copies.

1. A party shall be entitled at any stage to obtain a copy of the record of the case or any portion thereof including exhibits which have been put in and finally accepted in evidence, but excluding confidential papers and office notes.

2. A stranger to an Appeal or Application may, after decision, obtain a copy of any document on the record of a case, except confidential documents and office notes.

Provided that a stranger may not be given a copy of exhibits admitted in evidence except with the consent of the person by whom they were produced or his successor in interest.

3. Every such copy shall be ²[prepared,] examined and certified as correct before it is issued from the Office of the Tribunal.

²[Provided that a printed copy of a decision, published under the authority of the Government of India, may be certified from the office of the Tribunal on payment of the price of the publication and the prescribed fee for certification.]

4. The fees for preparing and certifying copies shall be such as may from time to time be prescribed and shall be deposited in cash.

Copies of decisions may be supplied to the Press on formal application being made and, unless otherwise ordered by the Chairman, shall be charged for at the rates prescribed for preparing copies.

Editors of such Law Journals as may be approved by the Tribunal

² Inserted by Notification No. L.A. 4(3), II/3560/54, d. 24.8.54, *rev* Gazette of India G.O. 4.P.54, Pt. III—Sec. 1, p. 434.

² Subs. for the Note appended to Rule 3 by *ibid*.

shall be allowed to make copies of decision free of charge provided that the copies are made by their own agents, using their own typewriters and stationery and that such copying work is done in the presence of an Officer deputed by the Registrar for the purpose.

Provided further that applications for such copies are made within seven days of the disposal of a case.

NOTE.—Nothing contained in this Rule or the proviso thereto, shall affect or limit the power of the Tribunal to withdraw or modify at any time the privilege or concession granted under this Rule or otherwise, without any reasons being given for such withdrawal or modification.

5. Ordinary applications for copies shall be made between 11 a.m. and 3-30 p.m. on working days and between 11 a.m. and 12 noon on Saturdays.

Applications for urgent copies may be made at any time during Office hours.

6. Applications for copies shall be made in the prescribed form (Form No. XV) appended to these Rules copies whereof may be obtained from the Office of the Tribunal.

7. On receipt of an application for a copy, the Head Clerk shall inform the applicant of the amount of fees payable and that his application will not be considered complete and the preparation of the copy will not be commenced, until he has deposited the said amount.

8. If owing to insufficient or incorrect description the document of which a copy is sought cannot be traced, that fact should be endorsed on the application which should be submitted to the Assistant Registrar for orders.

9. If the estimated amount of fees is not put in within seven days of its being notified to the applicant the application for copy shall be rejected.

10. If an application has been rejected under Rule 9, and a copy is still required, a fresh application must be filed and dealt with in the manner prescribed, as though the original application had not been made.

11. When the estimated amount has been paid, a note to that effect and the date of payment shall be entered in the place provided in the application for that purpose and the applicant required to sign the entry. The date on which the copy will be ready shall also be noted in the appropriate column of the application form and a corresponding entry shall be made in the counterfoil of the application. The applicant shall retain the counterfoil and shall attend on the date fixed for the purpose of receiving the copy.

12. If and when it is ascertained that additional fees are necessary the amount thereof shall be immediately notified to the applicant and shall be put in within seven days of receipt of the notice.

13. When the applicant complies with Rule 12 a note should be made on the reverse of the counterfoil showing the additional amount and the date of payment as also the subsequent date fixed for delivery. This note shall be signed both by the applicant and by the Head Clerk.

14. Every copy must bear the signature of the copyist making it and the date on which the copy was completed. It must also bear the signature of the Clerk who examined the copy and the date on which such copy was examined.

15. In ordinary circumstances a copy shall be furnished not later than 1 p.m. on the third day after the necessary fee, or additional fee, has been put in.

15-A. If the applicant furnishes his address accompanied by a sufficient amount (in cash) to cover the cost of registration (A.D.) a copy may be sent to him by post.

15-B. A notice showing what copies are ready for delivery shall be put up on the notice board at the close of each day.

16. Should the applicant fail to appear to claim the copy before the last day of the month succeeding that in which the copy was ready for delivery, or should he fail to put in the additional fee within the period prescribed in Rule 12 such copy shall be destroyed.

17. A certified copy shall bear the seal of the Tribunal and shall be 'certified to be a true copy' and signed by an Officer empowered to do so by the Registrar. The Certifying Officer shall append to his signature the words 'authorised under Sec. 76 of Act I of 1872'.

18. When a copy is granted the following particulars shall be recorded on the back of the copy itself and in the form given below:—

- (i) Date of application for copy;
- (ii) Date of notifying the fee payable;
- (iii) Date of deposit of fee;
- (iv) Date on which copy was ready for delivery;
- (v) Date of making over copy to applicant.

19. A Register shall be maintained in respect of application for copies in the prescribed form (Form No. XVI appended to these Rules).

II. Inspection.

20. No record of any case shall be removed from the Tribunal's premises except under the order in writing of the Chairman, or of a Member or the Registrar, Deputy Registrar or Assistant Registrar.

21. Inspection of records shall only be allowed upon an application being made in the form prescribed for the purpose (Form No. XVII appended to these Rules), obtainable from the office of the Tribunal.

22. Every application for inspection shall specify the record or paper of which inspection is desired and the name of the person or persons by whom the inspection will be made.

23. No record or paper of any department shall be inspected by any person other than the Chairman, a Member or an Officer of the Tribunal, except upon an order in writing of the Chairman, a Member or Gazetted Officer of the Tribunal:

Provided that a party appearing in person in an appeal, or other proceeding or a legal practitioner appearing for a party may, upon filing an application in the prescribed form, inspect a record in the room provided

for the purpose without a formal order in writing obtained under this rule but in the presence of the officer nominated by the Registrar for the purpose of giving inspection.

NOTE.—Rules 19 to 23 and 24 of these Rules shall not apply to inspections made in Court under orders obtained from the Tribunal and in the presence of the Court Clerk.

24. A stranger to an appeal or other proceeding shall not be entitled as of right to inspect any record or document. He may, however, apply for an order to inspect such record or document, provided that he shall not be allowed to inspect exhibits put in evidence except with the consent of the person by whom they were produced or his successor in interest. Every such application shall be in the prescribed form (see Rule 21) and shall specify the paper or papers which it is desired to inspect and clearly state the reason for which inspection is sought.

25. Every application for inspection shall be made between the hours of 10-45 a.m. and 3-30 p.m. on a Court day and between the hours of 11 a.m. and 12 noon on Saturdays.

26. Every order by which inspection is allowed shall state the name of the person who may make such inspection.

26A(a) No person inspecting a record or paper shall make any work on, or in any respect mutilate, any record or paper which is being inspected.

(b) He may make short notes but shall on no account be allowed to make a copy or translation of any paper or record or to compare a copy of translation already made.

NOTE.—The words 'short notes' in this rule mean such brief notes or memoranda with respect of the date and nature of the documents, names of parties, etc. as may be necessary to identify the documents or record, in case a copy is required.

27. No one, other than the Chairman, a Member or a Gazetted Officer of the Tribunal, shall be allowed to inspect any Register of the Tribunal or of the office except on an order in writing of the Registrar or other Gazetted Officer and in the presence of the Officer whose duty it is to keep such Register.

III. Information.

28. Applications for information shall be made by the parties or their representatives only, in the prescribed form (Form No. XVIII appended to these Rules), copies of which will be available in the Office of the Tribunal, and delivered to the Head Clerk.

29. On receipt of the application the Head Clerk shall, if the information is available, fill in the information both in the upper and lower halves of the form in their proper places.

If the information is not immediately available, the Head Clerk shall state in the appropriate place the date on which the applicant should call for the information and shall make over the lower portion of the form to the applicant. Upon the applicant calling for the information on the date stated, he shall supply the information in the appropriate place, an

acknowledgment for the same being obtained on the upper portion of the form which shall be placed in Part II of the Tribunal's file of the case in respect of which the information was supplied.

30. Unless it is immediately available and supplied, information shall ordinarily be supplied on the next day after application.

NOTE.—(i) Information requiring anything but short answers shall not be given. If an extract from the record or the substance of any order or decree or other document is desired, the proper course is to apply for a copy.

(ii) Defective applications and applications in which the information asked for cannot for any reason be given shall be rejected subject to the orders of the Registrar.

ORDER V.

1. The records of the Tribunal shall be divided into three Parts:
Part I: Shall consist of:

- (i) Order sheet;
- (ii) The Memorandum of Appeal or Petition with enclosures, if any;
- (iii) Affidavits or Order appealed against, with enclosures, if any;
- (iv) Authorization in favour of the persons appearing on behalf of Parties.
- (v) The Award of Order appealed against, with enclosures, if any;
- (vi) The decision of the Appellate Tribunal.

Part II: Shall consist of:

- (i) Copies of letters calling for record;
- (ii) Copies of correspondence, if any, regarding removal of defects or supply of deficiencies;
- (iii) Copies of notices issued and Post Office receipts and acknowledgments in respect thereof or, when service takes place otherwise than through Post Office, report of service of notice.
- (iv) A note sheet containing chronological record of all steps taken in connection with the case.

Part III: Shall consist of spare sets of papers put in by parties during the hearing of an appeal or other proceeding and not taken back at the conclusion of the hearing.

2. Part I shall be preserved for ever.

Parts II and III shall be destroyed after three years from the final disposal of the case:

Provided that before Part III is destroyed, the party concerned is notified that if he so desires he may take back within a month from the reception of the notice any papers filed by him during the hearing and not taken back at its conclusion, and that if not taken back they will be destroyed after the expiry of the period of one month.

FORM NO. XV.

Application for copy.

LABOUR APPELLATE TRIBUNAL OF INDIA

Serial No.

Application for urgent copy Appeal No. of 195 .
ordinary Application
Appellant
 ..
Petitioner
 versus
Respondent
 ..
Opp. Party.

Description of document of which
 a copy is wanted, with date
 when necessary.

Application is made by the
 undersigned for certified copy of
 the marginally noted document
 from the Tribunal's file in the
 above case which was disposed of
 on is still pending.

Date,

Signature of the applicant.

Office Report.

Estimate of costs.

The copy will cover sheets.

Applicant's signature

Clerk.

Head Clerk.

Record received on

Copy will be ready on

Copy actually ready on

Copy delivered on

Serial No.

Received copy on

Received an application for copy
 bearing the above number.

Estimated cost—Rs. As.

To attend for copy on

Date.

Head Clerk.

Applicant.

Note.—The application will not be considered as complete until costs have
 been supplied in full, which must be done within seven days of the
 date of the estimate. All enquiries and complaints shall be ac-
 companied by this counterfoil. It will have to be given up when
 the copy is delivered.

FORM NO. XVI.

LABOUR APPELLATE TRIBUNAL OF INDIA.

Register of Application for Copy.

Serial No.	Date of receipt of application.	Name of applicant.	Description of document.	Copy fee assessed.	Certifying fee advanced.	Receipt No. and date of payment of fees.	Copied by	Copy ready (date.)	Copy delivered (date.)	Remarks.

LABOUR APPELLATE TRIBUNAL ORDERS

FORM NO. XVII.

LABOUR APPELLATE TRIBUNAL OF INDIA.

Serial No.
DateApplication for inspection of the record in the undermentioned
pending _____ case,
disposed of _____

Description of case.	Number.	Year.	Description of the papers for which inspection is required.	Name of person or persons who will inspect the record (not exceeding three including the inspecting Advocate).

195

Signature of Applicant.

The Note.—If the applicant is a stranger or a party appearing in person in a case, he must say so in the application and state the reason for which he seeks inspection.

FORM NO. XVIII.

Application for information.

Serial No.

* Re. Appeal No. of 195 . State :
Application

* 1. Nature of Information required.
 The 195 .

Signature of Applicant.

2. Date when the applicant will
 call for the information :—

3. Office report re : information :— Signature of the Officer supplying
 The 195 . the information.

4. Information received on
 The 195 .

Signature of Applicant.

* Re. Appeal No. of 195 .
Application

5. Date by which information is
 to be ready.....

6. Information :—

Supplied on.....

Signature of the Officer supplying
the information.

* To be filled in by the Applicant.

THE INDUSTRIAL DISPUTES (BANKING AND INSURANCE COMPANIES) ACT, 1949.

ACT NO. LIV OF 1949.¹

[14th December, 1949.]

*An Act to provide for the adjudication of industrial disputes
 concerning certain banking and insurance companies.*

WHEREAS it is expedient to provide for the adjudication of industrial
 disputes concerning banking and insurance companies having branches or
 other establishments in more than one State :

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the
 Industrial Disputes (Banking and Insurance Companies) Act, 1949.

¹ For Statement of Objects and Reasons, see Gazette of India, dated
 10th December, 1949, Pt. v, pp. 392-393.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context, the expressions “award”, “banking company”, “industrial dispute” and “insurance company” have the meanings respectively assigned to them in section 2 of the Industrial Disputes Act, 1947 (XIV of 1947) as amended by this Act.

3. [*Amendment of section 2, Act XIV of 1947.*]² Rep. by the Repealing and Amending Act XLVIII of 1952.

4. *Prohibition of references by State Governments of certain industrial disputes for adjudication, inquiry or settlement.*—Notwithstanding anything contained in any other law, it shall not be competent for a State Government or any officer or authority subordinate to such Government to refer an industrial dispute concerning any banking or insurance company, or any matter relating to such dispute, to any tribunal or other authority for adjudication, inquiry or settlement.

5. *Abatement of proceedings relating to disputes pending before State tribunals and reference of such disputes to tribunals constituted by the Central Government.*—(1) Where under any law any industrial dispute concerning any banking or insurance company or any matter relating to such dispute has, before the 30th day of April, 1949, been referred by a State Government or any officer or authority subordinate to such Government to any tribunal or other authority for adjudication or settlement and any proceedings in respect of or arising out of such reference were immediately before that date pending before any tribunal or other authority, then on the aforesaid date such reference shall be deemed to have been withdrawn and all such proceedings shall have abated.

(2) The Central Government shall, as soon as may be after the commencement of this Act, by order in writing, refer under section 10 of the said Act every industrial dispute to which the provisions of sub-section (1) apply to an Industrial Tribunal constituted under the said Act for adjudication.

6. *Powers of Central Government to refer disputes in respect of which awards or decisions have been made for readjudication.*—(1) Where any award or decision has been made in respect of any industrial dispute concerning any banking or insurance company by any tribunal or other authority constituted or appointed by a State Government or any officer or authority subordinate to such Government, then the Central Government may, notwithstanding that the said award or decision is in force, by order in writing refer under section 10 of the said Act the dispute or any of the

² Amendment made by this section have been incorporated in Act XIV of 1947 (The Industrial Disputes Act, 1947).

matters in dispute to an Industrial Tribunal constituted under the said Act for readjudication and stay the implementation of the award or decision so made or of any part of such award or decision until the Industrial Tribunal to which the dispute or any of the matters in dispute is referred for readjudication has submitted its award or for such further period as the Central Government may consider necessary.

(2) After the Industrial Tribunal to which the dispute or any of the matters in dispute has been so referred for readjudication has submitted its award under sub-section (1) of section 15 of the said Act, the Central Government may, by order in writing, declare that the award or decision previously made in respect of such dispute by the Tribunal or other authority constituted or appointed by the State Government or any officer or authority subordinate to such Government or such part of that award or decision as may be specified in the order shall cease to be in operation.

7. *Repeal of Ordinance XXVIII of 1949.*—(1) The Industrial Disputes (Banking and Insurance Companies) Second Ordinance, 1949 (XXVIII of 1949) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action taken.

THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946.

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THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946.

1ACT NO. XX OF 1946.

[23rd April, 1946.]

An Act to require employers in industrial establishments formally to define conditions of employment under them.

WHEREAS it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them;

It is hereby enacted as follows:—

1. *Short title, extent and application.*—(1) This Act may be called the Industrial Employment (Standing Orders) Act, 1946.

(2) It extends to ²[the whole of India ³except the State of Jammu and Kashmir].

(3) It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed, on any day of the preceding twelve months, and to such class or classes of other industrial establishments as the appropriate Government may from time to time, by notification in the official Gazette, specify in this behalf:

Provided that nothing in this Act shall apply to any industry to which, before the commencement of this Act, the provisions of Chapter V of the Bombay Industrial Disputes Act, 1938 (Bombay Act XXV of 1938), have been applied.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "appellate authority" means an Industrial Court, wherever it exists or in its absence an authority appointed by the appropriate Government by notification in the official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act;

(b) "appropriate Government" means in respect of industrial establishments under the control of the Central Government or a ⁴[Railway administration] or in a major port, mine or oil-field, the Central Government, and in all other cases, the ⁵[State Government];

(c) "Certifying Officer" means the Labour Commissioner wherever he exists, or in his absence an officer appointed by the appropriate Govern-

¹ For Statement of Objects and Reasons, see Gazette of India, 1946, Pt. V, p. 179.

² Subs. by L.A.O., 1950, for "all the Provinces of India" which had been subs. for "the whole of British India" by L.A.O., 1948.

³ Subs. for "except Part B States" by the Part B States (Laws) Act 3 of 1951.

⁴ Subs. for "Federal railway" by L.A.O., 1950.

⁵ Subs. for "Provincial Government" by ibid.

ment by notification in the official Gazette to exercise in such area as may be specified in the notification the functions of a Certifying Officer under this Act;

(d) "employer" means the owner of an industrial establishment to which this Act for the time being applies, and includes—

(i) in a factory, any person named under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934),⁶ as manager of the factory;

(ii) in any industrial establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf, or where no authority is so appointed, the head of the department;

(iii) in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment;

(e) "industrial establishment" means—

(i) an industrial establishment as defined in clause (ii) of section 2 of the Payment of Wages Act, 1936 (IV of 1936), or

(ii) a factory as defined in clause (f) of section 2 of the Factories Act, 1934,⁷ or

(iii) a railway as defined in clause (4) of section 2 of the Indian Railways Act, 1890 (IX of 1890), or

(iv) the establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen;

(f) "prescribed" means prescribed by rules made by the appropriate Government under this Act;

(g) "standing orders" means rules relating to matters set out in the Schedule;

(h) "trade union" means a trade union for the time being registered under the Indian Trade Unions Act, 1926 (XVI of 1926);

(i) "workman" means any person employed in any industrial establishment to do any skilled or unskilled, manual or clerical, labour for hire or reward, but does not include any member of the armed forces of [the Union.]⁸

3. *Submission of draft standing orders.*—(1) Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in his industrial establishment.

(2) Provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the industrial establishment, and where model standing orders have been prescribed, shall be, so far as is practicable, in conformity with such model.

(3) The draft standing orders submitted under this section shall be

⁶ See now the Factories Act 63 of 1948, Sec. 7, sub-sec. (1), cl. (e).

⁷ See now *ibid.*, Sec. 2, cl. (m).

⁸ Suba. for "the Crown" by L.A.O., 1950.

accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.

(4) Subject to such conditions as may be prescribed, a group of employers in similar industrial establishments may submit a joint draft of standing orders under this section.

4. *Conditions for certification of standing orders.*—Standing orders shall be certifiable under this Act if—

(a) provision is made therein for every matter set out in the Schedule which is applicable to the industrial establishment, and

(b) the standing orders are otherwise in conformity with the provisions of this Act:

and it shall not be the function of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

5. *Certification of standing orders.*—(1) On receipt of the draft under section 3, the Certifying Officer shall forward a copy thereof to the trade union, if any, of the workmen, or where there is no such trade union, to the workmen in such manner as may be prescribed, together with a notice in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice.

(2) After giving the employer and the trade union or such other representatives of the workmen as may be prescribed an opportunity of being heard, the Certifying Officer shall decide whether or not any modification of or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act and shall make an order in writing accordingly.

(3) The Certifying Officer shall thereupon certify the draft standing orders, after making any modifications therein which his order under sub-section (2) may require, and shall within seven days thereafter send copies of the certified standing orders authenticated in the prescribed manner and of his order under sub-section (2) to the employer and to the trade union or other prescribed representatives of the workmen.

6. *Appeals.*—(1) Any person aggrieved by the order of the Certifying Officer under sub-section (2) of section 5 may, within twenty-one days from the date on which copies are sent under sub-section (3) of that section, appeal to the appellate authority, and the appellate authority, whose decision shall be final, shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications thereof or additions thereto as it thinks necessary to render the standing orders certifiable under this Act.

(2) The appellate authority shall, within seven days of its order under sub-section (1), send copies thereof to the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied, unless it has confirmed without amendment the

standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner.

7. *Date of operation of standing orders.*—Standing orders shall, unless an appeal is preferred under section 6, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (3) of section 5, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of section 6.

8. *Register of standing orders.*—A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee.

9. *Posting of standing orders.*—The text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.

10. *Duration and modification of standing orders.*—(1) Standing orders finally certified under this Act shall not, except on agreement between the employer and the workmen, be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

(2) An employer desiring to modify his standing orders shall apply to the Certifying Officer in that behalf, submitting five copies of the standing orders in which shall be indicated the modifications he proposes, and where such modifications are made in agreement with the workmen, a certified copy of the agreement shall accompany the application.

(3) The foregoing provisions of this Act shall apply in respect of an application under sub-section (2) as they apply to the certification of the first standing orders.

11. *Certifying officers and appellate authorities to have powers of Civil Court.*—Every Certifying Officer and appellate authority shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1898).

12. *Oral evidence in contradiction of standing orders not admissible.*—No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders as finally certified under this Act shall be admitted in any Court.

13. *Penalties and procedure.*—(1) An employer who fails to submit draft standing orders as required by section 3, or who modifies his standing orders, otherwise than in accordance with section 10, shall be punishable

with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) An employer who does any act in contravention of the standing orders finally certified under this Act for his industrial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(3) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of the appropriate Government.

(4) No Court inferior to that of a Presidency Magistrate or Magistrate of the second class shall try any offence under this section.

14. Power to exempt.—The appropriate Government may by notification in the official Gazette exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Act.

15. Power to make rules.—(1) The appropriate Government may, after previous publication, by notification in the official Gazette make rules⁹ to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in accordance with any such addition;

(b) set out model standing orders for the purposes of this Act;

(c) prescribe the procedure of Certifying Officers and appellate authorities;

(d) prescribe the fee which may be charged for copies of standing orders entered in the register of standing orders;

(e) provide for any other matter which is to be or may be prescribed:

Provided that before any rules are made under clause (a) representatives of both employers and workmen shall be consulted by the appropriate Government.

⁹ For such Central rules, viz., The Industrial Employment (Standing Orders) Central Rules, 1946, see Notification No. L.R. 11 (37), dated 18th December, 1946, also see pp. 580-588 *infra* and for different State rules, viz., for Assam Rules, see Assam Gazette, dated April, 1947, for Bombay Rules, see Bombay Gazette, 1946, Pt. IVA, Extraordinary, p. 456, for Punjab Rules, see East Punjab Gazette, dated 24th April, 1946, Pt. I, p. 398, for West Bengal Rules, see Calcutta Gazette, dated October, 1946, for Madras Rules, see Fort St. George Gazette, dated 9th December, 1947, Pt. I.R.S., for Bihar Rules, see Bihar Gazette, dated November, 1947, for Orissa Rules, see Orissa Gazette, dated July, 1947, for U.P. Rules, see U.P. Gazette, dated, December, 1946, and for Madhya Pradesh Rules, see C.P. & Berar Gazette, dated November, 1947.

THE SCHEDULE.

[See sections 2(g) and 3(2).]

MATTERS TO BE PROVIDED IN STANDING ORDERS UNDER THIS ACT.

1. Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers or *badlis*.
2. Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of, procedure in applying for, and the authority which may grant leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. Closing and reopening of sections of the industrial establishment and temporary stoppages of work and the rights and liabilities of the employer and workmen arising therefrom.
8. Termination of employment, and the notice thereof to be given by employer and workmen.
9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
10. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter which may be prescribed.

THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) CENTRAL RULES, 1946.¹

1. (1) These rules may be called the Industrial Employment (Standing Orders) Central Rules, 1946.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. In these rules, unless there is anything repugnant in the subject or context:—

(a) 'Act' means the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946).

(b) 'Form' means a form set out in Schedule II appended to these rules.

3. The model Standing Orders for the purposes of the Act shall be those set out in Schedule I appended to these Rules.

¹ See Deptt. of Labour Notification No. L.R. 11(37), dated 18th December, 1946.

4. An application for certification of Standing Orders shall be made in Form I.

5. The prescribed particulars of workmen, for the purposes of sub-section (3) of section 3 of the Act shall be:—

- (1) Total Number employed;
- (2) Number of permanent workmen;
- (3) Number of temporary workmen;
- (4) Number of badlis or substitutes;
- (5) Number of probationers;
- (6) Number of Apprentices;
- (7) Name of the trade union or trade unions, if any, to which the workmen belong;
- (8) Remarks.

6. As soon as may be after he receives an application under rule 4 in respect of an industrial establishment, the certifying officer shall:—

(a) Where there is a trade union of the workmen, forward a copy of the draft Standing Orders to the trade union together with a notice in Form II;

(b) Where there is no such trade union, call a meeting of the workmen to elect three representatives, to whom he shall, upon their election, forward a copy of the draft standing orders together with a notice in Form II.

7. Standing Orders certified in pursuance of sub-section (3) of section 3 or sub-section (2) of section 6 of the Act shall be authenticated by the signature and seal of office of the certifying officer or the appellate authority, as the case may be, and shall be forwarded by such officer or authority within a week of authentication by registered letter post to the employer and to the trade union or, as the case may be, the representatives of the workmen elected in pursuance of rule 6.

8. The register required to be maintained by section 8 of the Act shall be in Form III and shall be properly bound and the certifying officer shall furnish a copy of standing orders approved for an industrial establishment to any person applying therefor on payment of a fee of rupee one a copy.

SCHEDULE I.

Model Standing Orders.

1. These orders shall come into force on.....
2. Classification of workmen.—(a) Workmen shall be classified

as—

- (1) permanent,
- (2) probationers,
- (3) badlis,
- (4) temporary,
- (5) casual,
- (6) apprentices.
- (b) A "permanent" workman is a workman who has been engaged

on a permanent basis and includes any person who has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial establishment, including breaks due to sickness, accident, leave, lockout, strike (not being an illegal strike) or involuntary closure of the establishment.

(c) A "probationer" is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months service therein. If a permanent employee is employed as a probationer in a new post he may, at any time during the probationary period of three months, be reverted to his old permanent post.

(d) A "Badli" is a workman who is appointed in the post of a permanent workman or probationer who is temporarily absent.

(e) A "temporary" workman is a workman who has been engaged for work which is of an essentially temporary nature likely to be finished within a limited period.

(f) A "casual" workman is a workman whose employment is of a casual nature.

(g) An "apprentice" is a learner who is paid an allowance during the period of his training.

3. *Tickets*.—(1) Every workman shall be given a permanent ticket unless he is a probationer, badli, temporary worker or apprentice.

(2) Every permanent workman shall be provided with a departmental ticket showing his number, and shall, or being required to do so, show it to any person authorised by the manager to inspect it.

(3) Every badli shall be provided with a badli card, on which shall be entered the days on which he has worked in the establishment, and which shall be surrendered if he obtains permanent employment.

(4) Every temporary workman shall be provided with a 'temporary' ticket which he shall surrender on his discharge.

(5) Every casual worker shall be provided with a 'casual' card, on which shall be entered the days on which he has worked in the establishment.

(6) Every apprentice shall be provided with an 'apprentice' card, which shall be surrendered if he obtains permanent employment.

4. *Publication of working time*.—The periods and hours of work for all classes of workers in each shift shall be exhibited in English and in the principal languages of workmen employed in the establishment on notice boards maintained at or near the main entrance of the establishment and at the time-keeper's office, if any.

5. *Publication of holidays and pay days*.—Notices specifying (a) the days observed by the establishment as holidays and (b) pay days shall be posted on the said notice boards.

6. *Publication of wage rates*.—Notices specifying the rates of wages payable to all classes of workmen and for all classes of work shall be displayed on the said notice boards.

7. *Shift working*.—More than one shift may be worked in a department or departments or any section of a department of the establishment at the discretion of the employer. If more than one shift is worked,

the workmen shall be liable to be transferred from one shift to another. No shift working shall be discontinued without one month's notice being given, prior to such discontinuance, provided that no such notice will be necessary if, as a result of the discontinuance of the shift, no permanent employee will be discharged. If as a result of discontinuance of shift working, any permanent workmen are to be discharged, they shall be discharged having regard to the length of their service in the establishment, those with the shortest term of service being discharged first. If shift working is restarted, a week's notice thereof shall be given by posting a notice at the main entrance to the establishment and the time-keeper's office, if any; and the workmen discharged as a result of the discontinuance of the shift, if they present themselves at the time of the restarting of the shift, have preference in being re-employed, having regard to the length of their previous service under the establishment, those with the longest term of service being re-employed first.

8. *Attendance and late coming.*—All workmen shall be at work at the establishment at the time fixed and notified under paragraph 4. Workmen attending late will be liable to the deductions provided for in the Payment of Wages Act, 1936.

9. *Leave.*—(1) Holidays with pay will be allowed as provided for in Chapter IVA of the Factories Act, 1934², and other holidays in accordance with law, contract, custom and usage.

(2) A workman who desires to obtain leave of absence shall apply to the manager, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for, whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the orders shall be given on the same day. If the leave asked for is granted, a leave pass shall be issued to the worker. If the leave is refused or postponed, the fact of such refusal or postponement and the reasons therefor shall be recorded in writing in a register to be maintained for the purposes, and if the worker so desires, a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave desires an extension thereof he shall apply to the manager who shall send a written reply either granting or refusing the extension of leave to the workman if his address is available and if such reply is likely to reach him before the expiry of the leave originally granted to him.

(3) If the workman remains absent beyond the period of leave originally granted or subsequently extended, he shall lose his lien on his appointment unless he (a) returns within 8 days of the expiry of the leave and (b) explains to the satisfaction of the manager his inability to return before the expiry of his leave. In case the workman loses his lien on his appointment, he shall be entitled to be kept on the 'badli' list.

10. *Casual leave.*—A workman may be granted casual leave of absence with or without pay not exceeding 10 days in the aggregate in a

² See now Chapter VIII of the Factories Act 63 of 1948.

calendar year. Such leave shall not be for more than three days at a time except in case of sickness. Such leave is intended to meet special circumstances which cannot be foreseen. Ordinarily, the previous permission of the head of the department in the establishment shall be obtained before such leave is taken, but when this is not possible, the head of the department shall, as soon as may be practicable, be informed in writing of the absence from and of the probable duration of such absence.

11. *Payment of wages.*—(1) Any wages, due to the workman but not paid on the usual pay day on account of their being unclaimed, shall be paid by the employer on an unclaimed wage pay day in each week, which shall be notified on the notice boards as aforesaid.

(2) All workmen will be paid wages on a working day before the expiry of the seventh or the tenth day after the last day of the wage period in respect of which the wages are payable, according as the total number of workmen employed in the establishment does not or does exceed one thousand.

12. *Stoppage of work.*—(1) The employer may, at any time, in the event of fire, catastrophe, breakdown of machinery or stoppage of power supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workmen affected shall be notified by notices put upon the notice board in the departments concerned, or at the office of the manager, as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. The workmen shall not be ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour the workmen so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workmen so detained shall be entitled to receive wages for the whole of the time during which they are detained as a result of the stoppage. In the case of piece-rate workers, the average daily earning for the previous month shall be taken to be the daily wage. No other compensation will be admissible in case of such stoppages. Wherever practicable, reasonable notice shall be given of resumption of normal work.

(3) In cases where workmen are laid off for short periods on account of failure of plant or temporary curtailment of production, the period of unemployment shall be treated as compulsory leave either with or without pay, as the case may be. When, however, workmen have to be laid off for an indefinitely long period, their services may be terminated after giving them due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department of the establishment close down either wholly or partially such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notices put on the notice board in the section or department concerned and in the timekeeper's office, if any, as soon as practicable.

The workmen concerned shall also be notified by a general notice, prior to resumption of work, as to when work will be resumed.

13. *Termination of employment.*—(1) For terminating employment of a permanent workman, notice in writing shall be given either by the employer or the workman—one month's notice in the case of monthly-rated workmen and two weeks notice in the case of other workmen: one month's or two weeks pay, as the case may be, may be paid in lieu of notice.

(2) No temporary workman whether monthly-rated, weekly-rated or piece-rated and no probationer or *badli* shall be entitled to any notice or pay in lieu thereof if his services are terminated, but the services of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed in paragraph 14.

(3) Where the employment of any workman is terminated the wages earned by him and other dues, if any, shall be paid before the expiry of the second working day from the day on which his employment is terminated.

14. *Disciplinary action for Misconduct.*—(1) A workman may be fined up to two per cent. of his wages in a month for any of the following acts and omissions, namely:—

.....

Note.—Specify the acts and omissions which the employer may notify with the previous approval of the Government or of the prescribed authority in pursuance of Section 8 of the Payment of Wages Act, 1936.

(2) A workman may be suspended for a period not exceeding four days at a time, or dismissed without notice or any compensation in lieu of notice, if he is found to be guilty of misconduct.

(3) The following acts and omissions shall be treated as misconduct:—

(a) wilful insubordination or disobedience, whether alone or in combinations with others, to any lawful and reasonable order of a superior,

(b) theft, fraud, or dishonesty in connection with the employer's business or property,

(c) wilful damage to or loss of employer's goods or property,

(d) taking or giving bribes or any illegal gratification,

(e) habitual absence without leave or absence without leave for more than 10 days,

(f) habitual late attendance,

(g) habitual breach of any law applicable to the establishment,

(h) riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline,

(i) habitual negligence or neglect of work,

(j) frequent repetition of any act or omission for which a fine may be imposed to a maximum of 2 per cent. of the wages in a month.

(k) striking work or inciting others to strike work in contravention of the provisions of any law, or rule having the force of law.

(4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him. The approval of the manager of the establishment or where there is no manager, of the employer is required in every case of dismissal and, when circumstances appear to warrant it, the manager or the employer may institute independent enquiries before dealing with charges against a workman.

²[Provided that in the case of workmen to whom the provisions of article 311 of clause (2) of the Constitution of India apply, the provisions of that article shall be complied with.]

(5) An order of suspension shall be in writing and may take effect immediately on delivery to the workman. Such order shall set out in detail the alleged misconduct and the workman shall be given an opportunity of explaining the circumstances alleged against him. If on enquiry the order is confirmed, the workman shall be deemed to have been absent from duty for the period of suspension and shall not be entitled to any remuneration for such period. If, however, the order is rescinded, the workman shall be deemed to have been on duty during the period of suspension and shall be entitled to the same as he would have received if he had not been suspended.

(6) In awarding punishment under this standing order, the manager shall take into account the gravity of the misconduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances that may exist. A copy of the order passed by the manager shall be supplied to the workman concerned.

15. Complaints.—All complaints arising out of employment including those relating to unfair treatment or wrongful exaction on the part of the employer or his agent, shall be submitted to the manager or other person specified in this behalf with the right of appeal to the employer.

16. Certificate on Termination of Service.—Every permanent workman shall be entitled to a service certificate at the time of his dismissal, discharge or retirement from service.

17. Liability of manager.—The manager of the establishment shall personally be held responsible for the proper and faithful observance of the standing orders.

18. Exhibition of standing orders.—A copy of these orders in English and in _____ shall be posted at the manager's office and on a notice board maintained at or near the main entrance to the establishment and shall be kept in a legible condition.

² Inserted by Notification No. S.R.O. 861, dt. 26.10.50, pub. in Gazette of India, dt. 4.11.50, Part II—Sec. 3, p. 899.

SCHEDULE II

Form I

[Industrial Employment (Standing Orders) Act, 1946—Section 3].
Dated 19 .

To

The Certifying Officer, ⁴[* * *]
(Area)
(Place)

Sir,
Under the provisions of section 3 of the Industrial Employment (Standing Orders) Act, 1946, I enclose five copies of the draft standing orders proposed by me for adoption in

(Name)
(Place) (Postal address)
an industrial establishment owned/controlled by me, with the request that these orders may be certified under the terms of the Act, I also enclose a statement giving the particulars prescribed in rule 5 of the Industrial Employment (Standing Orders) Central Rules, 1946.

I am etc.,
(Signature)
Employer
Manager

Form II

[Notice under section 5 of the Industrial Employment (Standing Orders) Act, 1946.]

Office of the Certifying Officer for area.
Place Dated the 19 .
1, Certifying Officer. area.

forward herewith a copy of the draft standing orders proposed by the employer for adoption in the industrial establishment and submitted to me for certification under the Industrial Employment (Standing Orders) Act, 1946. Any objections which the workmen may desire to make to the draft standing orders should be submitted to me within fifteen days from the receipt of this notice.

(Certifying Officer)

Seal

To

The Secretary.

Union.

Representative elected under Rule 5	{	Name
		Occupation
		Industrial establishment.

⁴ The words "Central Government" omitted by Notification No. S.R.O. 1505 d/- 25.7.53; vide Gazette of India, d/- 1.8.53, Pt. II—Sec. 3, p. 1217.

Form III

[Industrial Employment (Standing Orders) Act, 1946—Section 8]

Register—Part I

Industrial Establishment

Serial No.	Date of the despatch of the copy of Standing Orders authenticated under Section 5 for the first time.	Date of Filing appeal.	Date and nature of decision.	Amendments made on appeal, if any.	Date of the despatch of the copy of the Standing Orders as settled on appeal.	Any notice subsequently given or received of any amendment.	Result.

Part II

(Should contain the authenticated copy of the Standing Orders)

THE INDUSTRIES (DEVELOPMENT AND REGULATION) ACT, 1951. CONTENTS

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THE FIRST SCHEDULE.
THE SECOND SCHEDULE.THE INDUSTRIES (DEVELOPMENT AND REGULATION)
ACT, 1951.NO. LXV OF 1951¹.

An Act to provide for the development and regulation of certain industries.
[31st October, 1951]

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Industries (Development and Regulation) Act, 1951.
(2) It extends to the whole of India except the State of Jammu and Kashmir.

¹ For Statement of Objects and Reasons, see Gazette of India, 1949 Part V, p. 156; and for Report of Select Committee, see Gazette of India, 1950, Part V, p. 103 and 1951, Part II-Sec. 2, p. 709.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

2. *Declaration as to expediency of control by the Union.*—It is hereby declared that it is expedient in the public interest that the Union should take under its control the industries specified in the First Schedule.

3. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Advisory Council" means the Central Advisory Council established under section 5;

(b) "Development Council" means a Development Council established under section 6;

³[(bb) "existing industrial undertaking" means—

(a) in the case of an industrial undertaking pertaining to any of the industries specified in the First Schedule as originally enacted, an industrial undertaking which was in existence on the commencement of this Act or for the establishment of which effective steps had been taken before such commencement, and

(b) in the case of an industrial undertaking pertaining to any of the industries added to the First Schedule by an amendment thereof, an industrial undertaking which is in existence on the coming into force of such amendment or for the establishment of which effective steps had been taken before the coming into force of such amendment;]

(c) "factory" means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on—

(i) with the aid of power, provided that fifty or more workers are working or were working thereon on any day of the preceding twelve months; or

(ii) without the aid of power, provided that one hundred or more workers are working or were working thereon on any day of the preceding twelve months and provided further that in no part of such premises any manufacturing process is being carried on with the aid of power;

(d) "industrial undertaking" means any undertaking pertaining to a scheduled industry carried on in one or more factories by any person or authority including Government;

⁴[(dd) "new article", in relation to an industrial undertaking which is registered or in respect of which a licence or permission has been issued under this Act, means—

(a) any article which falls under an item in the First Schedule other than the item under which articles ordinarily manufactured or produced in the industrial undertaking at the date of registration or issue of the licence or permission, as the case may be, fall;

² The Act came into force on 8th May, 1952, vide Notification No. S.R.O. 811, dated 8th May, 1952, pub. in Gazette of India, dated 8th May, 1952, Pt. II, Sec. 3, p. 539.

³ Inserted by the Industries (Development and Regulation) Amendment Act 28 of 1953.

⁴ Inserted by *ibid*.

(b) any article which bears a mark as defined in the Trade Marks Act, 1940 (V of 1940), or which is the subject of a patent, if at the date of registration or issue of the licence or permission, as the case may be, the industrial undertaking was not manufacturing or producing such article bearing that mark or which is the subject of that patent.]

(c) "notified order" means an order notified in the Official Gazette;

(f) "owner" in relation to an industrial undertaking, means the person who, or the authority which, has the ultimate control over the affairs of the undertaking, and, where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the undertaking;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "Schedule" means a Schedule to this Act;

(i) "scheduled industry" means any of the industries specified in the First Schedule.

4. [Saving.]—*Rep. by the Industries (Development and Regulation) Amendment Act, 1953 (XXVI of 1953).*

CHAPTER II

THE CENTRAL ADVISORY COUNCIL AND DEVELOPMENT COUNCIL

5. *Establishment and constitution of Central Advisory Council and its functions.*—(1) For the purpose of advising it on matters concerning the development and regulation of scheduled industries, the Central Government may, by notified order, establish⁵ a Council to be called the Central Advisory Council.

(2) The Advisory Council shall consist of a Chairman and such other members, not exceeding thirty in number, all of whom shall be appointed by the Central Government from among persons who are in its opinion capable of representing the interests of—

(a) owners of industrial undertakings in scheduled industries;

(b) persons employed in industrial undertakings in scheduled industries;

(c) consumers of goods manufactured or produced by scheduled industries;

(d) such other class of persons including primary producers, as in the opinion of the Central Government, ought to be represented on the Advisory Council.

(3) The term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among, members of the Advisory Council, shall be such as may be prescribed.

⁵ The Central Advisory Council established by Notification No. S.R.O. 812, dated 8th May, 1952, pub. in Gazette of India, dated 8th May, 1952, Pt. II-Sec. 3, p. 539.

(4) The Central Government

shall consult the Advisory Council in regard to—

(a) the making of any rules, other than the first rules to be made under sub-section (3);

* * * *

and may consult the Advisory Council in regard to any other matter connected with the administration of this Act in respect of which the Central Government may consider it necessary to obtain the advice of the Advisory Council.

6. *Establishment and constitution of Development Councils and their functions.*—(1) The Central Government may, by notified order, establish for any scheduled industry or group of scheduled industries, a body of persons to be called a Development Council which shall consist of members who in the opinion of the Central Government are—

(a) persons capable of representing the interests of owners of industrial undertakings in the scheduled industry or group of scheduled industries;

(b) persons having special knowledge of matters relating to the technical or other aspects of the scheduled industry or group of scheduled industries;

(c) persons capable of representing the interests of persons employed in industrial undertakings in the scheduled industry or group of scheduled industries;

(d) persons not belonging to any of the aforesaid categories, who are capable of representing the interests of consumers of goods manufactured or produced by the scheduled industry or group of scheduled industries.

(2) The number and the term of office of, and the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among members of a Development Council shall be such as may be prescribed.

(3) Every Development Council shall be, by virtue of this Act, a body corporate by such name as may be specified in the notified order establishing it, any may hold and transfer property and shall by the said name sue and be sued.

(4) A Development Council shall perform such functions of a kind specified in the Second Schedule as may be assigned to it by the Central Government and for whose exercise by the Development Council it appears to the Central Government expedient to provide in order to increase the efficiency or productivity in the scheduled industry or group of scheduled industries for which the Development Council is established, to improve or develop the service that such industry or group of industries renders or could render to the community, or to enable such industry or group of industries to render such service more economically.

(5) A Development Council shall also perform such other functions as it may be required to perform by or under any other provision of this Act.

* Clause (b) omitted by Act 26 of 1953.

7. *Reports and accounts of Development Councils.*—(1) A Development Council shall prepare and transmit to the Central Government and the Advisory Council, annually, a report setting out what has been done in the discharge of its functions during the financial year last completed.

(2) The report shall include a statement of the accounts of the Development Council for that year, and shall be transmitted as soon as accounts therefor have been audited, together with a copy of any report made by the auditors on the accounts.

(3) The statement of account shall be in such form as may be prescribed, being a form which shall conform to the best commercial standards, and the statement shall show the total of remuneration and allowances paid during the year to members and officers of the Council.

(4) A copy of each such report of a Development Council, or made by the auditors on its accounts, shall be laid before Parliament by the Central Government.

8. *Dissolution of Development Councils.*—(1) The Central Government may, if it is satisfied that a Development Council should cease to continue in being, by notified order, dissolve that Development Council.

(2) On the dissolution of a Development Council under sub-section (1), the assets of the Development Council, after its liabilities, if any, are met therefrom, shall vest in the Central Government for the purposes of this Act.

9. *Imposition of cess on scheduled industries in certain cases.*—(1) There may be levied and collected as a cess for the purposes of this Act on all goods manufactured or produced in any such scheduled industry as may be specified in this behalf by the Central Government by notified order a duty of excise at such rate as may be specified in the notified order, and different rates may be specified for different goods or different classes of goods:

Provided that no such rate shall in any case exceed two annas per cent of the value of the goods.

Explanation.—In this sub-section, the expression "value" in relation to any goods shall be deemed to be the wholesale cash price for which such goods of the like kind and quality are sold or are capable of being sold for delivery at the place of manufacture and at the time of their removal therefrom, without any abatement or deduction whatever except trade discount and the amount of duty then payable.

(2) The cess shall be payable at such intervals, within such time and in such manner as may be prescribed, and any rules made in this behalf may provide for the grant of a rebate for prompt payment of the cess.

(3) The said cess may be recovered in the same manner as an arrear of land revenue.

(4) The Central Government may hand over the proceeds of the cess collected under this section in respect of the goods manufactured or produced by any scheduled industry or group of scheduled industries to the Development Council established for that industry or group of industries,

and where it does so, the Development Council shall utilise the said proceeds—

(a) to promote scientific and industrial research with reference to the scheduled industry or group of scheduled industries in respect of which the Development Council is established;

(b) to promote improvements in design and quality with reference to the products of such industry or group of industries;

(c) to provide for the training of technicians and labour in such industry or group of industries;

(d) to meet such expenses in the exercise of its functions and its administrative expenses as may be prescribed.

CHAPTER III

REGULATION OF SCHEDULED INDUSTRIES

10. *Registration of existing industrial undertakings.*—⁷[(1) The owner of every existing industrial undertaking, not being the Central Government, shall, within such period as the Central Government may, by notification in the Official Gazette, fix in this behalf with respect to industrial undertakings generally or with respect to any class of them, register the undertaking in the prescribed manner.]

(2) The Central Government shall also cause to be registered in the same manner every existing industrial undertaking of which it is the owner.

⁸[(3) Where an industrial undertaking is registered under this section, there shall be issued to the owner of the undertaking or the Central Government, as the case may be, a certificate of registration containing such particulars as may be prescribed.]

⁹[10A. *Revocation of registration in certain cases.*—If the Central Government is satisfied that the registration of any industrial undertaking has been obtained by misrepresentation as to an essential fact or that any industrial undertaking has ceased to be registrable under this Act by reason of any exemption granted under this Act becoming applicable thereto or that for any other reason the registration has become useless or ineffective and therefore requires to be revoked, the Central Government may after giving an opportunity to the owner of the undertaking to be heard revoke the registration.]

11. *Licensing of new industrial undertakings.*—(1) No person or authority other than the Central Government, shall, after the commencement of this Act, establish any new industrial undertaking, except under and in accordance with a licence issued in that behalf by the Central Government;

Provided that a Government other than the Central Government may,

⁷ Subs. for original sub-sec. (1) by Act 26 of 1953.

⁸ Inserted by *ibid.*

⁹ Inserted by *ibid.*

with the previous permission of the Central Government, establish a new industrial undertaking.

(2) A licence or permission under sub-section (1) may contain such conditions including, in particular, conditions as to the location of the undertaking and the minimum standards in respect of size to be provided therein as the Central Government may deem fit to impose in accordance with the rules, if any, made under section 30.

¹[11A. *Licence for producing or manufacturing new articles.*—The owner of an industrial undertaking not being the Central Government which is registered under section 10 or in respect of which a licence or permission has been issued under section 11 shall not produce or manufacture any new article unless—

(a) in the case of an industrial undertaking registered under section 10, he has obtained a licence for producing or manufacturing such new article; and

(b) in the case of an industrial undertaking in respect of which a licence or permission has been issued under section 11, he has had the existing licence or permission amended in the prescribed manner.]

12. *Revocation and amendment of licences in certain cases.*—(1) If the Central Government is satisfied, either on a reference made to it in this behalf or otherwise, that any person or authority, to whom or to which, a licence has been issued under section 11, has, without reasonable cause, failed to establish or to take effective steps to establish the new industrial undertaking in respect of which the licence has been issued within the time specified therefor or within such extended time as the Central Government may think fit to grant in any case, it may revoke the licence.

(2) Subject to any rules that may be made in this behalf, the Central Government may also vary or amend any licence issued under section 11 :

Provided that no such power shall be exercised after effective steps have been taken to establish the new industrial undertaking in accordance with the licence issued in this behalf.

²[(3) The provisions of this section shall apply in relation to a licence issued under section 11A or where a licence has been amended under that section, to the amendment thereof, as they apply in relation to a licence issued under section 11.]

³[13. *Further provision for licensing of industrial undertakings in special cases.*—(1) No owner of an industrial undertaking, other than the Central Government, shall—

(a) in the case of an industrial undertaking required to be registered under section 10, but which has not been registered within the time fixed for the purpose under that section, carry on the business of that undertaking after the expiry of such period, or

¹ Inserted by Act 26 of 1953.

² Inserted by Act 26 of 1953.

³ Subs. for original sec. 13 by *ibid.*

(b) in the case of an industrial undertaking the registration in respect of which has been revoked under section 10A on the ground that it had been obtained by misrepresentation as to an essential fact, carry on the business of the undertaking after the revocation, or

(c) in the case of an industrial undertaking to which the provisions of this Act did not originally apply but became applicable after the commencement of this Act for any reason, carry on the business of the undertaking after the expiry of three months from the date on which the provisions of this Act became so applicable, or

(d) effect any substantial expansion of an industrial undertaking which has been registered, or

(e) change the location of the whole or any part of an industrial undertaking which has been registered, except under, and in accordance with, a licence issued in that behalf by the Central Government, and, in the case of a State Government, except under, and in accordance with the previous permission of the Central Government.

(2) The provisions of sub-section (2) of section 11 and of section 12 shall apply, so far as may be, in relation to the issue of licences or permissions to any industrial undertaking referred to in this section as they apply in relation to the issue of licences or permissions to a new industrial undertaking.

Explanation.—For the purposes of this section, ‘substantial expansion’ means the expansion of an existing industrial undertaking which substantially increases the productive capacity of the undertaking, or which is of such a nature as to amount virtually to a new industrial undertaking, but does not include any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion.]

14. *Procedure for the grant of licence or permission.*—Before granting any licence or permission under ⁴[section 11, section 11A or section 13], the Central Government may require such officer or authority as it may appoint for the purpose, to make a full and complete investigation in respect of applications received in this behalf and report to it the result of such investigation and in making any such investigation, the officer or authority shall follow such procedure as may be prescribed.

15. *Power to cause investigation to be made into scheduled industries or industrial undertakings.*—Where the Central Government is of the opinion that—

(a) in respect of any scheduled industry or industrial undertaking or undertakings—

(i) there has been, or is likely to be, a substantial fall in the volume of production in respect of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be; for which, having regard to the economic conditions prevailing, there is no justification; or

⁴ Subs. for “section 11 or section 13” by Act 26 of 1951.

(ii) there has been, or is likely to be, a marked deterioration in the quality of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, which could have been or can be avoided; or

(iii) there has been or is likely to be a rise in the price of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, for which there is no justification; or

(iv) it is necessary to take any such action as is provided in this Chapter for the purpose of conserving any resources of national importance which are utilized in the industry or the industrial undertaking or undertakings, as the case may be; or

⁵[(b) any industrial undertaking is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest;]

the Central Government may make or cause to be made a full and complete investigation into the circumstances of the case by such person or body of persons as it may appoint for the purpose.

16. Powers of Central Government on completion of investigation under section 15.—(1) If after making or causing to be made any such investigation as is referred to in section 15 the Central Government is satisfied that action under this section is desirable, it may issue such directions to the industrial undertaking or undertakings concerned as may be appropriate in the circumstances for all or any of the following purposes, namely:—

(a) regulating the production of any article or class of articles by the industrial undertaking or undertakings and fixing the standards of production;

(b) requiring the industrial undertaking or undertakings to take such steps as the Central Government may consider necessary to stimulate the development of the industry to which the undertaking or undertakings relates or relate;

(c) prohibiting the industrial undertaking or undertakings from resorting to any act or practice which might reduce its or their production, capacity or economic value;

(d) controlling the prices, or regulating the distribution, of any article or class of articles which have been the subject-matter of investigation.

(2) Where a case relating to any industry or industrial undertaking or undertakings is under investigation, the Central Government may issue at any time any direction of the nature referred to in sub-section (1) to the industrial undertaking or undertakings concerned, and any such direction shall have effect until it is varied or revoked by the Central Government.

17. [Special provisions for direct control by Central Government in certain cases.] *Rep. by the Industries (Development and Regulation) Amendment Act, 1953 (XXVI of 1953).*

18. Power of person or body of persons appointed under section 15 to call for assistance in any investigation.—(1) The person or body of persons appointed to make any investigation under section 15 may choose

⁵ Substituted for original cl. (b) by Act 26 of 1953.

one or more persons possessing special knowledge of any matter relating to the investigation to assist him or it in holding the investigation.

(2) The person or body of persons so appointed shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of taking evidence on oath (which he or it is hereby empowered to administer) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the person or body of persons shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (Act V of 1898).

*[CHAPTER III-A.

DIRECT MANAGEMENT OR CONTROL OF INDUSTRIAL UNDERTAKINGS BY CENTRAL GOVERNMENT IN CERTAIN CASES.

18A. *Power of Central Government to assume management or control of an industrial undertaking in certain cases.*—(1) If the Central Government is of opinion that—

(a) an industrial undertaking to which directions have been issued in pursuance of section 16 has failed to comply with such directions, or

(b) an industrial undertaking in respect of which an investigation has been made under section 15 (whether or not any directions have been issued to the undertaking in pursuance of section 16), is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest,

the Central Government may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the undertaking or to exercise in respect of the whole or any part of the undertaking such functions of control as may be specified in the order.

(2) Any notified order issued under sub-section (1) shall have effect for such period not exceeding five years as may be specified in the order :

Provided that the Central Government, if it is of opinion that it is expedient in public interest so to do, may direct that any such notified order shall continue to have effect after the expiry of the period of five years aforesaid for such further period as may be specified in the direction and where any such direction is issued, a copy thereof shall be laid, as soon as may be, before both Houses of Parliament.

Explanation.—The power to authorise a body of persons under this section to take over the management of an industrial undertaking which is a company includes also a power to appoint any individual, firm or company to be the managing agent of the industrial undertaking on such terms and conditions as the Central Government may think fit.

18B. *Effect of notified order under section 18A.*—(1) On the

issue of a notified order under section 18A authorising the taking over of the management of an industrial undertaking.—

(a) all persons in charge of the management, including persons holding office as managers or directors of the industrial undertaking immediately before the issue of the notified order, shall be deemed to have vacated their offices as such;

(b) any contract of management between the industrial undertaking and any managing agent or any director thereof holding office as such immediately before the issue of the notified order shall be deemed to have been terminated;

(c) the managing agent, if any, appointed under section 18A shall be deemed to have been duly appointed as the managing agent in pursuance of the Indian Companies Act, 1913 (VII of 1913), and the memorandum and articles of association of the industrial undertaking, and the provisions of the said Act and of the memorandum and articles shall, subject to the other provisions contained in this Act, apply accordingly, but no such managing agent shall be removed from office except with the previous consent of the Central Government;

(d) the person or body of persons authorised under section 18A to take over the management shall take all such steps as may be necessary to take into his or their custody or control all the property, effects and actionable claims to which the industrial undertaking is or appears to be entitled, and all the property and effects of the industrial undertaking shall be deemed to be in the custody of the person or, as the case may be, the body of persons as from the date of the notified order; and

(e) the persons, if any, authorised under section 18A to take over the management of an industrial undertaking which is a company shall be for all purposes the directors of the industrial undertaking duly constituted under the Indian Companies Act, 1913 (VII of 1913) and shall alone be entitled to exercise all the powers of the directors of the industrial undertaking, whether such powers are derived from the said Act or from the memorandum or articles of association of the industrial undertaking or from any other source.

(2) Subject to the other provisions contained in this Act and to the control of the Central Government, the person or body of persons authorised to take over the management of an industrial undertaking, shall take such steps as may be necessary for the purpose of efficiently managing the business of the industrial undertaking and shall exercise such other powers and have such other duties as may be prescribed.

(3) Where any person or body of persons has been authorised to exercise any functions of control in relation to an industrial undertaking, the undertaking shall be carried on pursuant to any directions given by the authorised person in accordance with the provisions of the notified order, and any person having any functions of management in relation to the undertaking or part thereof shall comply with all such directions.

(4) The person or body of persons authorised under section 18 shall, notwithstanding anything contained in the memorandum or articles of

association of the industrial undertaking, exercise his or their functions in accordance with such directions as may be given by the Central Government so, however, that he or they shall not have any power to give any other person any directions under this section inconsistent with the provisions of any Act or instrument determining the functions of the authority carrying on the undertaking except in so far as may be specifically provided by the notified order.

18C. *Contracts in bad faith, etc., may be cancelled or varied.*—Without prejudice to the provisions contained in section 18B, the person or body of persons authorised under section 18A to take over the management of an industrial undertaking may, with the previous approval of the Central Government, make an application to any court having jurisdiction in this behalf for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under section 18A, between the industrial undertaking and any other person and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and is detrimental to the interests of the industrial undertaking, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement, and the contract or agreement shall have effect accordingly.

18D. *No right to compensation for termination of office or contract.*—Notwithstanding anything contained in any law for the time being in force, no person who ceases to hold any office by reason of the provisions contained in clause (a) of section 18B, or whose contract of management is terminated by reason of the provisions contained in clause (b) of that section, shall be entitled to any compensation for the loss of office or for the premature termination of his contract of management :

Provided that nothing contained in this section shall affect the right of any such person to recover from the industrial undertaking moneys recoverable otherwise than by way of such compensation.

18E. *Application of Act VII of 1913.*—(1) Where the management of an industrial undertaking, being a company as defined in the Indian Companies Act, 1913 (VII of 1913), is taken over by the Central Government, then notwithstanding anything contained in the said Act or in the memorandum or articles of association of such undertaking,—

(a) it shall not be lawful for the shareholders of such undertaking or any other person to nominate or appoint any person to be a director of the undertaking;

(b) no resolution passed at any meeting of the shareholders of such undertaking shall be given effect to unless approved by the Central Government;

(c) no proceeding for the winding up of such undertaking or for the appointment of a receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1), and to

the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Indian Companies Act, 1913 (VII of 1913), shall continue to apply to such undertaking in the same manner as it applied thereto before the issue of the notified order under section 18A.

18F. Power of Central Government to cancel notified order under section 18A.—If at any time it appears to the Central Government on the application of the owner of the industrial undertaking or otherwise that the purpose of the order made under section 18A has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Central Government may, by notified order, cancel such order and on the cancellation of any such order the management or the control, as the case may be, of the industrial undertaking shall vest in the owner of the undertaking.]

6 [CHAPTER III-B

CONTROL OF SUPPLY, DISTRIBUTION, PRICE, ETC., OF CERTAIN ARTICLES.

18G. Power to control supply, distribution, price, etc., of certain articles.—(1) The Central Government, so far as it appears to it to be necessary or expedient for securing the equitable distribution and availability at fair prices of any article or class of articles relatable to any scheduled industry, may, notwithstanding anything contained in any other provision of this Act, by notified order, provide for regulating the supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the power conferred by sub-section (1), a notified order made thereunder may provide—

(a) for controlling the prices at which any such article or class thereof may be bought or sold;

(b) for regulating by licences, permits or otherwise the distribution, transport, disposal, acquisition, possession, use or consumption of any such article or class thereof;

(c) for prohibiting the withholding from sale of any such article or class thereof ordinarily kept for sale;

(d) for requiring any person manufacturing, producing or holding in stock any such article or class thereof to sell the whole or part of the articles so manufactured or produced during a specified period or to sell the whole or a part of the articles so held in stock to such person or class of persons and in such circumstances as may be specified in the order;

(e) for regulating or prohibiting any class of commercial or financial transactions relating to such article or class thereof which in the opinion of the authority making the order are, or if unregulated are likely to be, detrimental to public interest;

(f) for requiring persons engaged in the distribution and trade and commerce in any such article or class thereof to mark the articles exposed

or intended for sale with the sale price or to exhibit at some easily accessible place on the premises the price-lists of articles held for sale and also to similarly exhibit on the first day of every month, or at such other time as may be prescribed, a statement of the total quantities of any such articles in stock:

(g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters; and

(h) for any incidental or supplementary matters, including, in particular, the grant or issue of licences, permits or other documents and the charging of fees therefor.

(3) Where, in pursuance of any order made with reference to clause (d) of sub-section (2), any person sells any article, there shall be paid to him the price thereof—

(a) where the price can consistently with the controlled price, if any, be fixed by agreement, the price so agreed upon;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any, fixed under this section;

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

(4) No order made in exercise of any power conferred by this section shall be called in question in any court.

(5) Where an order purports to have been made and signed by an authority in exercise of any power conferred by this section, a court shall, within the meaning of the Indian Evidence Act, 1872 (1 of 1872), presume that such order was so made by that authority.

Explanation.—In this section, the expression "article or class of articles," relating to any scheduled industry includes any article or class of articles imported into India which is of the same nature or description as the article or class of articles manufactured or produced in the scheduled industry.]

CHAPTER IV

MISCELLANEOUS

19. *Powers of inspection.*—(1) For the purpose of ascertaining the position or working of any industrial undertaking or for any other purpose mentioned in this Act or the rules made thereunder, any person authorised by the Central Government in this behalf shall have the right—

(a) to enter and inspect any premises;

(b) to order the production of any document, book, register or record in the possession or power of any person having the control of, or employed in connection with, any industrial undertaking; and

(c) to examine any person having the control of, or employed in connection with, any industrial undertaking.

(2) Any person authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

20. *General prohibition of taking over management or control of*

industrial undertakings.—After the commencement of this Act, it shall not be competent for any State Government or a local authority to take over the management or control of any industrial undertaking under any law for the time being in force which authorises any such Government or local authority so to do.

21. *Certain administrative expenses of Development Councils to be paid from moneys provided by Parliament.*—Such administrative expenses as relate to the emoluments of officers of a Development Council who are appointed by or with the approval of the Central Government, shall be defrayed out of moneys provided by Parliament.

22. *Power of the Central Government to issue directions to Development Councils.*—In the exercise of its functions under this Act, every Development Council shall be guided by such instructions as may be given to it by the Central Government and such instructions may include directions relating to the manner in which, and the purpose for which, any proceeds of the cess levied under section 9 which may have been handed over to it, shall be expended.

[†]**23.** *Decision of Central Government final respecting certain matters.*—If, for the purposes of this Act, any question arises as to whether—

(a) there has been a substantial expansion of an industrial undertaking, or

(b) an industrial undertaking is producing or manufacturing any new article,

the decision of the Central Government thereon shall be final.]

24. *Penalties.*—^a[(1) If any person contravenes or attempts to contravene or abets the contravention of—

(i) the provisions of sub-section (1) of section 10 or of sub-section (1) of section 11 or of section 11A or of sub-section (1) of section 13, or

(ii) any direction issued under section 16 or sub-section (3) of section 18B, or

(iii) any order made under section 18G, or

(iv) any rule the contravention of which is made punishable under this section,

he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and, in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.]

(2) If the person contravening any of the said provisions is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly :

[†] Subs. for original sec. 23 by Act. 26 of 1953.

^a Subs. for original sub-sec. (1) by *ibid.*

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

¹[24A. *Penalty for false statements.*—If any person,—

(a) when required by this Act or by any order under this Act to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false or does not believe to be true; or

(b) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any order made under this Act to maintain or furnish;

he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both.]

¹[25. *Delegation of powers.*—(1) The Central Government may, by notified order, direct that any power exercisable by it under this Act (other than the power given to it by sections 16 and 18A) shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority (including in the said expressions any Development Council, State Government or officer or authority subordinate to the Central Government) as may be specified in the direction.

(2) Any power exercisable by a State Government by virtue of a direction under sub-section (1) may, unless otherwise provided in such direction, be exercised also by such officer or authority subordinate to that State Government as it may, by notified order, specify in this behalf.]

¹[26. *Power to issue directions.*—The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any order or direction made thereunder.]

⁰ Inserted by Act. 28 of 1953.

¹ Subs. for original sections 25, 26, 27, 28 and 29 by *ibid.*

¹[27. *Cognizance of offences.*—No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (Act LXV of 1860).]

¹[28. *Burden of proof in certain cases.*—Where any person is prosecuted for contravening any order made under section 18G which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document shall be on him.]

¹[29. *Jurisdiction of courts.*—(1) Subject to the provisions of sub-section (2), no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

(2) Any magistrate or bench of magistrates empowered, for the time being, to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 (V of 1898), may, on application in this behalf being made by the prosecution, try, in accordance with the provisions contained in sections 262 to 265 of the said Code any offence which consists of a contravention of an order made under section 18G.]

¹[29A. *Special provision regarding fines.*—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (V of 1898), it shall be lawful for any magistrate of the first class and for any presidency magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of any offence under this Act.]

¹[29B. *Power to exempt in special cases.*—If the Central Government is of opinion, having regard to the smallness of the number of workers employed or to the amount invested in any industrial undertaking or to the desirability of encouraging small undertakings generally or to the stage of development of any scheduled industry, that it would not be in public interest to apply all or any of the provisions of this Act thereto, it may, by notification in the Official Gazette, exempt, subject to such conditions as it may think fit to impose, any industrial undertaking or class of industrial undertakings or any scheduled industry or class of scheduled industries as it may specify in the notification from the operation of all or any of the provisions of this Act or of any rule or order made thereunder.]

¹[29C. *Protection of action taken under the Act.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which in good faith done or intended to be done under this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.]

¹ See fn. 1 in p. 604.

30. *Power to make rules.*—(1) The Central Government may, subject to the condition of previous publication, make rules² for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the constitution of the Advisory Council and Development Councils, the term of office and other conditions of service of, the procedure to be followed by, and the manner of filling casual vacancies among, members of the Advisory Council or a Development Council;

(b) the form of the statement of account to be furnished by a Development Council;

(c) the intervals at which, the time within which, and the manner in which the cess leviable under section 9 shall be payable and the rebate for the prompt payment of such cess;

(d) the expenses which a Development Council may meet from the proceeds of the cess levied under section 9 which may have been handed over to it;

(e) the appointment by or with the approval of the Central Government of any officers of a Development Council;

(f) the facilities to be provided by any industrial undertaking for the training of technicians and labour;

(g) the collection of any information or statistics in respect of any scheduled industry;

(h) the manner in which industrial undertakings may be registered under section 10 and the levy of a fee therefor;

(i) the procedure for the grant or issue of licences and permissions under section 2³[11, section 11A or section 13], the time within which such licences or permissions shall be granted or issued including, in particular, the publication of notices calling for applications and the holding of such public inquiry in relation thereto as may be necessary in the circumstances;

(f) the fees to be levied in respect of licences and permissions issued under this Act;

(k) the matters which may be taken into account in the granting or issuing of licences and permissions, including in particular, the previous consultation by the Central Government with the Advisory Council or any Development Council or both in regard to the grant or issue of any such licences or permission;

² For rules made under sec. 30 read with sec. 5 (3), viz., The Central Advisory Council (Procedural) Rules, 1952, see Notification No. S.R.O. 813, dated 8th May, 1952, pub. in Gazette of India, dated 8th May, 1952, Pt. II-Sec. 3, pp. 540 and 541; and for rules made under section 30 read with sections 10-14, viz., The Registration and Licensing of Industrial Undertakings Rules, 1952, see Notification No. S.R.O. 1141, dated 9th July, 1952, pub. in Gazette of India, Extraordinary, dated 9th July, 1952, Pt. II-Sec. 3, pp. 617-632. For the above rules, see pp. 611-642 *Infra*.

³ Sub. for "section 11 or section 13" by Act 26 of 1953.

(f) the procedure to be followed in making any investigation under this Act;

(m) the conditions which may be included in any licences and permissions;

(n) the conditions on which licences and permissions may be varied or amended under section 12;

(o) the maintenance of books, accounts and records relating to an industrial undertaking;

(p) the submission of special or periodical returns relating to an industrial undertaking by persons having the control of, or employed in connection with, such undertaking and the forms in which, and the authorities to which, such returns and reports shall be submitted;

(q) any other matter which is to be or may be prescribed under this Act.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable under section 24.

(4) All rules made under this section shall be laid for not less than seven days before Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid, or the session immediately following.

31. *Application of other laws not barred.*—The provisions of this Act shall be in addition to and not, save as otherwise expressly provided in this Act, in derogation of any other Central Act for the time being in force, relating to any of the scheduled industries.

32. *Amendment of section 2, Act XIV of 1947.*—In section 2 of the Industrial Disputes Act, 1947 (XIV of 1947),—

(a) in sub-clause (i) of clause (a), after the words "by a railway company" the words "or concerning any such controlled industry as may be specified in this behalf by the Central Government" shall be inserted;

(b) after clause (c), the following clause shall be inserted, namely:—

(cc) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;.

THE FIRST SCHEDULE

[See sections 2 and 3 (4)]

Any industry engaged in the manufacture or production of any of the following, namely:—

- (1) Aircraft.
- (2) Arms and ammunition.
- (3) Coal, including coke and other derivatives.
- (4) Iron and steel.
- 4[(5) Mathematical, surveying and drawing instruments;
- (5A) Scientific instruments.]
- (6) Motor and aviation fuel, kerosene, crude oils and synthetic oils.

* Subs. for original item (5) by Act 28 of 1953.

- (7) Ships and other vessels propelled by the agency of steam, or by electricity or other mechanical power.
- (8) Sugar.
- (9) Telephones, telegraph apparatus and wireless communication apparatus.
- 5[(10) textiles—
 - (a) made wholly or in part of cotton, including cotton yarn, hosiery and rope,
 - (b) made wholly or in part of jute, including jute yarn, twine and rope,
 - (c) made of wool, including woollen yarn, hosiery, carpets and druggets,
 - (d) made of silk,
 - (e) made of artificial silk, including artificial silk yarn,
 - (f) made wholly or in part of staple fibre.]
- 6[(11) Automobiles.
 - (11A) Tractors.]
 - (12) Cement.
- 7[(13) Electric lamps.
 - (13A) Electric fans.]
 - (14) Electric motors.
 - (15) Heavy chemicals including fertilizers.
- 8[(16) Machinery used in industries including boilers and steam generating equipment.
 - (16A) Ball, roller and tapered bearings.
 - (17) Locomotives.
 - (17A) Rolling stock.]
 - (18) Machine tools.
 - (19) Machinery and equipment for the generation, transmission and distribution of electric energy.
 - (20) Non-ferrous metals including alloys ⁹[and semi-manufactures thereof.]
 - (21) Paper including newsprint, ¹[paper board and straw board].
 - (22) Pharmaceuticals and drugs.
 - (23) Power and industrial alcohol.
 - (24) Rubber goods.
- 2[(25) Leather, leather goods and pickers.
 - (26) Glue and gelatine;
 - (27) Vansapati;
 - (27A) Vegetable oils.]
 - (28) Agricultural implements.
 - (29) Batteries, dry cells and storage.
 - (30) Bicycles ^{2a}[* * *].
 - (31) Hurricane lanterns.
 - (32) Internal combustion engines.
 - (33) Power-driven pumps.
 - (34) Radio receivers.
- 3[(35) Sewing machines.
 - (35A) Knitting machines.
 - (36) Nail tools.

⁵ Subs. for original item (10) by Act 26 of 1953.

⁶ Subs. for original item (11) by *ibid.*

⁷ Subs. for original item (13) by *ibid.*

⁸ Subs. for original items (16) and (17) by *ibid.*

⁹ Inserted by *ibid.*

¹ Inserted by Act 28 of 1953.

² Subs. for original items (25), (26) and (27) by *ibid.*

^{2a} "and parts thereof" omitted by *ibid.*

³ Subs. for original items (35) and (36) by *ibid.*

- (36A) Hand tools.]
- (37) Glass and ceramics.
- 4 [(38) Dye-stuffs.
- (39) Soap.
- (40) Other toilet requisites.
- (41) Plywood
- (42) Ferro-manganese.]

3[*Explanation 1.*—In item (4), "Iron and steel" shall include any manufactured product of iron and steel.

Explanation 2.—In items (1), (7), (9), (11), (11A), (13), (13A), (17), (17A), (29), (30), (32), (33), (34), (35), (35A), (36) and (36A), the articles specified therein shall include each of their component parts and accessories also.]

THE SECOND SCHEDULE

[See section 6(4)]

Functions which may be assigned to Development Councils:—

- (1) Recommending targets for production, co-ordinating production programmes and reviewing progress from time to time.
- (2) Suggesting norms of efficiency with a view to eliminating waste, obtaining maximum production, improving quality and reducing costs.
- (3) Recommending measures for securing the fuller utilisation of the installed capacity and for improving the working of the industry, particularly of the less efficient units.
- (4) Promoting arrangements for better marketing and helping in the devising of a system of distribution and sale of the produce of the industry which would be satisfactory to the consumer.
- (5) Promoting standardisation of products.
- (6) Assisting in the distribution of controlled materials and promoting arrangements for obtaining materials for the industry.
- (7) Promoting or undertaking inquiry as to materials and equipment and as to methods of production, management and labour utilisation, including the discovery and development of new materials, equipment and methods and of improvements in those already in use, the assessment of the advantages of different alternatives and the conduct of experimental establishments and of tests on a commercial scale.
- (8) Promoting the training of persons engaged or proposing engagement in the industry and their education in technical or artistic subjects relevant thereto.
- (9) Promoting the retraining in alternative occupations of personnel engaged in or retrenched from the industry.
- (10) Promoting or undertaking scientific and industrial research, research into matters affecting industrial psychology and research into matters relating to production and to the consumption or use of goods and services supplied by the industry.

4 Inserted by Act 26 of 1953.

5 Inserted by *ibid.*

(11) Promoting improvements and standardisation of accounting and costing methods and practice.

(12) Promoting or undertaking the collection and formulation of statistics.

(13) Investigating possibilities of decentralizing stages and processes of production with a view to encouraging the growth of allied small scale and cottage industries.

(14) Promoting the adoption of measures for increasing the productivity of labour, including measures of securing safer and better working conditions and the provision and improvement of amenities and incentives for workers.

(15) Advising on any matters relating to the industry (other than remuneration and conditions of employment) as to which the Central Government may request the Development Council to advise and undertaking inquiries for the purpose of enabling the Development Council so to advise, and

(16) Undertaking arrangements for making available to the industry information obtained and for advising on matters with which the Development Councils are concerned in the exercise of any of their functions.

THE REGISTRATION AND LICENSING OF INDUSTRIAL UNDERTAKINGS RULES, 1952¹

1. *Short title.*—These rules may be called the Registration and Licensing of Industrial Undertakings Rules, 1952.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context:—

(i) "the Act" means the Industries (Development and Regulation) Act, 1951 (LXV of 1951).

(ii) "effective steps" shall mean one or more of the following:—

²[(a) that 60 per cent. or more of the capital issued for an industrial undertaking which is a public company within the meaning of the Indian Companies Act, 1913 (VII of 1913) has been paid up:]

(b) that a substantial part of the factory building has been constructed;

(c) that a firm order has been placed for a substantial part of the plant and machinery required for the undertaking.

3. *Application for Registration.*—³[(1) An application for the registration of an existing industrial undertaking shall be made, in triplicate,

¹ Vide Notification No. S.R.O. 1141-d/- 2.7.52, pub. in Gazette of India, Extraordinary, d/- 9.7.52, pp. 617-632.

² Subs. for original sub-cl. (a) by Notification No. S.R.O. 1855 d/- 1.10.53; vide Gazette of India, Extraordinary, d/- 1.10.53, Pt. II-Sec. 3, p. 3035.

³ Subs. for original sub-rule (1) by *ibid*; vide *ibid*.

to the Ministry of Commerce and Industry, Government of India, New Delhi, in Form A or B as the case may be, appended to these Rules at least three months before the expiry of the period fixed under sub-section (1) of section 10 of the Act in relation to that Industrial Undertaking :

Provided that an application which is not made in time, may be entertained by the Ministry of Commerce and Industry, if the applicant satisfies that Ministry that there was sufficient cause for not making the application in time.]

“(A) Where an application for the registration of an industrial undertaking is pending at the commencement of the Industries (Development and Regulation) Amendment Act, 1953, no fresh application for such registration shall be necessary under the rule and any such pending application shall be disposed of in accordance with the provisions of these Rules.

(B) Where an industrial undertaking consists of more than one factory, a separate form, A or B as the case may be, shall be filed and sent in respect of each factory.]

(2) Each application shall be accompanied by a treasury receipt for Rs. 10. The amount should be deposited in the nearest Government Treasury or in the nearest Branch of the Imperial Bank of India. (Amounts deposited at Bombay, Calcutta, Delhi, ⁴[* *] and Madras should be deposited in the Reserve Bank of India instead of the Imperial Bank of India). The Treasury or the Bank should be asked to credit the amount to the Receipt Head “XXXII—Industries and Supplies—Miscellaneous Receipts.”

4. *Acknowledgement of application.*—On receipt of the application, the receiving officer shall note thereon the date of its receipt, and shall send to the applicant an acknowledgement stating the date of receipt.

5. *Power of Central Government to ask for additional information.*—The Ministry of Commerce and Industry or the authority appointed by it ⁵[in this behalf], may require the applicant to furnish within a period to be specified by it, such additional information as it may consider necessary for the purpose of registration.

6. *Grant of Registration Certificate.*—If an application made under sub-rule (1) of rule 3 falls within the scope of that rule, the Ministry of Commerce and Industry ⁶[* * *], shall, after such investigation as it may consider necessary, grant to the applicant, before the ⁷[expiry of the period fixed under section 10 of the Act], a certificate of registration in Form C appended to these rules. If an application made under sub-rule (1) of rule 3 does not fall within the scope of that rule, the Ministry of Commerce and Industry ⁶[* * *] shall inform the applicant accordingly.

⁴ Inserted by *ibid.*; vide *ibid.*, pp. 3033-3034.

⁵ The word “Kampur” omitted by Notification No. S.R.O. 185, d/- 17.1.53; vide Gazette of India, d/- 24.1.53, Pt. II-Sec. 3, p. 112.

⁶ Subs. for “under rule 3” by Notification No. S.R.O. 1856, d/- 1.10.53; vide Gazette of India, Extraordinary, d/- 1.10.53, Pt. II-Sec. 3, p. 3034.

⁷ Certain words omitted by *ibid.*; vide *ibid.*

⁸ Subs. for certain words by *ibid.*; vide *ibid.*

7. *Application for Licence.*—(1) An application for a licence or permission for the establishment of a new industrial undertaking or any substantial expansion of an industrial undertaking shall be made before taking any of the following steps:

(a) Raising from the public any part of the capital required for the undertaking or expansion.

(b) Commencing the construction of any part of the factory buildings for the undertaking or expansion.

(c) Placing an order for any part of the plant and machinery required for the undertaking or expansion.

²[(1A) An application for a licence or permission for changing the location of the whole or any part of an industrial undertaking which has been registered shall be made before taking any of the following steps—

(a) the acquisition of land or the construction of premises for the purpose of housing the industrial undertaking at the proposed new site;

(b) the dismantling of any part of the plant and machinery at the existing site.]

³[(2) An application for a licence or permission under the Act shall be made, in triplicate, to the Ministry of Commerce and Industry, Government of India, New Delhi, in Form D, E or EE, as the case may be, appended to these rules.]

(3) Each application shall be accompanied by a treasury receipt for Rs. 50. The amount should be deposited in the nearest Government Treasury or in the nearest Branch of the Imperial Bank of India. (Amounts deposited at Bombay, Calcutta, Delhi, ^{4a}[* *] and Madras should be deposited in the Reserve Bank of India instead of the Imperial Bank of India). The Treasury or the Bank should be asked to credit the amount to the Receipt Head "XXXII—Industries and Supplies—Miscellaneous Receipts."

8. *Acknowledgement of application.*—On receipt of the application, the receiving officer shall note thereon the date of its receipt, and shall send to the applicant an acknowledgement stating the date of receipt.

9. *Power to call for additional information.*—The Ministry of Commerce and Industry or the authority appointed by it ⁴[in this behalf] may require the applicant to furnish, within a period to be specified by it, such additional information as it may consider necessary.

10. *Application to be referred to the Licensing Committee.*—The Ministry of Commerce and Industry ²[* * *] shall refer the application to a Committee (hereinafter referred to as the Licensing Committee) ³[consisting of one or more representatives] of each of the Ministries of Commerce and Industry, Railways, Finance (Department of Economic

^{4a} See fn. 4a in p. 612, ante.

³ Inserted by Notification No. S.R.O. 1356, dt. 1.10.55; see fn. 5 in p. 612, ante.

² Subs. for original sub-rule (2) by *ibid*; vide *ibid*.

¹ Subs. for "under sub-rule (1) of rule 7" by *ibid*; vide *ibid*.

² Certain words omitted by *ibid*; vide *ibid*.

³ Subs. for "consisting of a representative" by *ibid*; vide *ibid*.

Affairs) and Production, and of the Planning Commission. The representative of the Ministry of Commerce and Industry shall be the Chairman of the Committee. The Committee may co-opt one or more representatives of other Ministries of the Government of India or of any State Government concerned, whenever necessary.

11. *Submission of Report by the Licensing Committee.*—After such investigation as may be necessary, the Licensing Committee shall submit a report to the Ministry of Commerce and Industry.

12. *Contents of the Report.*—In making the report under rule 11, the Licensing Committee shall have regard to the approved plans, if any, of the Central Government for the development of the scheduled industry concerned and, where no such plans exist, to the existing capacity of the scheduled industry, the demand and supply position, availability of raw materials and plant and machinery. The report should, among other matters, contain recommendations regarding capital and its structure, suitability of the location proposed from the point of view of the approved plans for the industry, capacity of the plant to be installed, availability of rail-transport capacity, availability of technical and other skilled personnel required, and collaboration, if any, with foreign manufacturers.

13. *Recommendation regarding public enquiry.*—If the Licensing Committee is of the opinion that a public enquiry is necessary in respect of any application, it may recommend such a step to the Ministry of Commerce and Industry *| * * * *|.

14. *Invitation of applications.*—(1) The Ministry of Commerce and Industry or the authority appointed by it ²[in this behalf], may, where it considers necessary, invite, by means of a notice published in the Gazette of India, applications for the grant of licences for the establishment of new industrial undertakings in any scheduled industry.

(2) An application received under sub-rule (1) shall be dealt with in the manner laid down in rules 10 to 13.

15. *Grant of Licence or Permission.*—(1) The Ministry of Commerce and Industry shall consider the report submitted to it under rule 11, and where it decides that a licence or permission, as the case may be, should be granted, it shall inform the applicant accordingly, not later than 3 months from the date of receipt of the application, or the date on which additional information under rule 9 is furnished, whichever is later.

(2) Where the Ministry of Commerce and Industry considers that certain conditions should be attached to the licence or permission or that the licence or permission should be refused, it shall, not later than three months from the date of receipt of the application or the date on which additional information under rule 9 is furnished, whichever is later, give an opportunity to the applicant to state his case, before reaching a decision.

(3) Where a licence or permission has been refused the applicant shall be informed of the reasons for such refusal.

⁴ Certain words omitted by *ibid*; *vide ibid*.

⁵ Subs. for "under sub-rule (1) of rule 7" by *ibid*; *vide ibid*.

(4) Licences or permissions shall be in Form F appended to these rules.

16. *Variation or Amendment of Licences.*—(1) Any owner of an industrial undertaking in respect of which a licence has been granted, who desires any variation or amendment in his licence shall apply to the Ministry of Commerce and Industry ¹[* * * *], giving the reasons for the variation or amendment.

(2) The Ministry of Commerce and Industry after carrying out such investigation as it may consider necessary, may vary or amend the licence. The Ministry of Commerce and Industry may also consult the Licensing Committee before coming to a decision.

17. *Revocation of Licences.*—The Ministry of Commerce and Industry ²[* * * *] shall, before exercising its power of revocation of a licence under sub-section (1) of section 12 of the Act, give an opportunity to the licensee to state his case.

18. *Review of Licences by a sub-committee.*—A sub-committee of the Central Advisory Council shall be constituted which will review all licences issued, refused, varied, amended or revoked from time to time, and advise Government on the general principles to be followed in the issue of licences for establishing new undertakings or substantial expansion of the existing undertakings. The results of the review shall be reported to the Central Advisory Council.

19. *Submission of Returns.*—³[(1)] Every owner of an industrial undertaking in respect of which a licence or permission has been granted ⁴[under the Act] shall send every half year ending 30th June and 31st December, commencing from the date of grant of the licence or permission, as the case may be, till such time as the industrial undertaking commences production, a return, ⁵[with five spare copies], in Form G appended to these rules, to the Ministry of Commerce and Industry, Government of India, New Delhi, ⁶[* * * *]. The return relating to every half year shall be sent within one month after the expiry of that half year.

⁷[(2) Where any condition has been attached to a licence or permission granted in respect of an industrial undertaking to the effect that certain steps should be taken within a period specified therein, every owner of such an undertaking shall send a return with five spare copies, in Form G appended to these rules, to the Ministry of Commerce and Industry, Government of India, New Delhi, showing the progress made in taking such

¹ Certain words omitted by *ibid*; *vide ibid*.

² Certain words omitted by *ibid*; *vide ibid*.

³ R. 19 renumbered as sub-rule (1) of that rule by *ibid*; *vide ibid*.

⁴ Inserted by *ibid*; *vide ibid*.

⁵ Subs. for "in duplicate" by Notification No. S.R.O. 1853, d/- 1.10.53; *vide Gazette of India, Extraordinary, d/- 1.10.53, Pt. II-Sec. 3, p. 3034*.

⁶ Certain words omitted by *ibid*; *vide ibid*.

⁷ Inserted by *ibid*; *vide ibid*, pp. 3034-3035.

steps at the expiry of the period so specified. The return shall be sent within a period of seven days from the expiry of the period so specified.

(3) Every owner of an industrial undertaking which has been registered by reason of effective steps having been taken for the establishment of that undertaking, before the commencement of the Act shall send, every half year ending on the 30th June and the 31st December, and commencing from the 31st December, 1953, till such time as the industrial undertaking commences production, a return with five spare copies, in Form G appended to these rules, to the Ministry of Commerce and Industry, Government of India, New Delhi, or to any authority appointed by it in this behalf. The return relating to every half year shall be sent within one month of the expiry of that half year.]

⁴[19A. *Notice of certain facts to be given.*—(1) If there is any change in the name of a registered industrial undertaking or an undertaking in respect of which a licence or permission has been granted under the Act, the owner thereof shall, within fourteen days from the date of such change, give notice in writing of the fact to the Ministry of Commerce and Industry, Government of India, New Delhi;

(2) If there is any change in the owner of a registered industrial undertaking or an undertaking in respect of which a licence or permission has been granted, the new owner thereof shall, within fourteen days from the date of such change, give notice in writing of the fact to the Ministry of Commerce and Industry, Government of India, New Delhi;

(3) If by reason of (a) reduction in the number of workers employed; (b) discontinuation of the production of articles falling within the scope of the Act; or (c) any other reason, all or any of the provisions of the Act become inapplicable to a registered industrial undertaking or an undertaking in respect of which a licence or permission has been granted and continue to be so inapplicable for a period of six months the owner thereof shall, within fourteen days of the expiry of the said period of six months, give notice in writing of the fact to the Ministry of Commerce and Industry, Government of India, New Delhi;

(4) If a registered industrial undertaking or an industrial undertaking in respect of which a licence or permission has been granted, has been closed for a period exceeding thirty days, the owner thereof shall within seven days of the expiry of the said period of thirty days give notice in writing of the fact to the Ministry of Commerce and Industry, Government of India, New Delhi;

(5) If any decision has been taken by a competent authority that a registered industrial undertaking or an industrial undertaking in respect of which a licence or permission has been granted, shall be liquidated, the owner thereof shall, within fourteen days from the date of such a decision, give notice in writing of the fact to the Ministry of Commerce and Industry, Government of India, New Delhi.]

⁴[19B. *Loss of Registration Certificate or Licence.*—Where a Registration Certificate, a licence, or a permission granted under these Rules,

⁴ Rules 19A and 19B inserted by *ibid*; vide *ibid*, p. 2035.

is lost, destroyed or mutilated, a duplicate may be granted on receipt of a treasury challan for Rs. 5.)

20. Penalty for contravention of rules.—Whosoever contravenes or attempts to contravene or abets the contravention of any of these rules shall be punishable under section 24 of the Act.

21. Allotment of controlled commodities to licensed undertakings.—The owner of an industrial undertaking in respect of which a licence or permission has been granted shall be eligible to the allotment of controlled commodities required by him for the construction or operation or for both construction and operation of his undertaking on such preferential basis as the Central Government may determine from time to time. In determining such preference the Central Government shall have due regard to the requirements of existing industrial undertakings.

22. Concession in the grant of import licences to undertakings.—The owner of an industrial undertaking in respect of which a licence or permission has been granted shall be eligible for the issue of licences for the import of goods required by him for the construction or operation or for both construction and operation of his undertaking on such preferential basis as the Central Government may determine from time to time. In determining this preference which may include such concession as the submission of one consolidated application in respect of the requirements from each currency area for all items shown as licensable to actual users, submission of separate application for highly specialised items even though such items may not be shown as licensable to actual users and priority in the matter of import from different currency areas, the Central Government shall have due regard to the requirements of existing industrial undertakings.

⁵[FORM A

(Prescribed under Rule 3(1) of the Registration and Licensing of Industrial Undertakings Rules, 1952 as revised)

APPLICATION FOR REGISTRATION

I. This form is to be used in the following cases:—

(a) industrial undertakings producing on the 8th May 1952 or at any time during the 12 months preceding that date, articles relatable to the industries specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, as originally enacted,

(b) industrial undertakings producing on 1st October 1953 or at any time during the 12 months preceding that date, any articles relatable to the industries added to the First Schedule by the Industries (Development and Regulation) Amendment Act, 1953.

⁵ Forms A, B, D, E, F and G subs. for original Forms A, B, D, E, F and G and Form EE added, by Notification No. S.R.O. 1856, dt. 1.10.53; vide Gazette of India, Extraordinary, dt. 1.10.53, Pt. II-Sec. 3, pp. 3035-3053.

2. Particulars given in the application should show the position as on 8th May 1952 or 1st October 1953, as is applicable to the scheduled industry concerned.

1. Scheduled Industry or Industries to which the articles produced relate.

2. Registration number under the Indian Factories Act and the date of Registration.

3. Name of the industrial undertaking.

Address:—

(a) Head Office

(b) Factory.

4. Ownership. Whether proprietary, partnership, private limited or public limited.

5. Names of proprietors, partners or Board of Directors and their addresses.

6. Name and address of the owner of the factory in terms of section 3(f) of the Act.

7. Capital structure—

(a) In the case of companies registered under the Indian Companies Act, 1913,

(i) Authorised Capital—

Preference shares ..

Ordinary shares ..

Deferred shares ..

Any other class of shares.

(ii) Issued Capital—

Preference shares ..

Ordinary shares ..

Deferred shares ..

Any other class of shares.

(iii) Paid-up Capital—

Preference shares ..

Ordinary shares ..

Deferred shares ..

Any other class of shares.

(iv) Debentures.

(v) Other borrowings.

(b) In the case of others.

(i) Capital invested by the owner excluding borrowings.

(ii) Share of each of the partners or of members of an association.

(iii) Borrowings.

8. Name and address of Managing Agents, if any, and the principal clauses of the managing agency agreement.

Number Value Total.

9. A copy each of the last three years' Balance Sheets and Profit and Loss Accounts. (To be attached to each copy of the application).

10. (a) Foreign capital invested. Terms of agreement, if any, with foreign collaborator including terms in regard to royalty etc.

(b) Details of foreign technicians employed.

11. *Approximate land under control of the factory—

(1) for factory and administration purposes—

(a) in use

(b) available for expansion.

(2) for township and other facilities—

(a) in use

(b) available for expansion.

*(This is not applicable to mining concerns.)

12. Water Supply—

(a) Is it ample for the requirements of—

(1) factory and

(2) township or staff quarters?

(State approximate quantity.)

(b) Is it drawn from public supply?

(c) Effluent problems, if any.

13. Power Supply—

(a) Total requirements drawn from—

(1) own generating station.

(2) public supply.

(b) In case of own station, give brief particulars of plant in operation.

14. (a) Nature of plant and equipment section by section. Main plant and machinery items grouped under different sections following the standard practice in vogue in each industry.

(b) Replacement requirements over next five years.

15. Transport facilities for incoming raw materials and outgoing finished products.

16. Manufacturing activities.

(a) Whether continuous or shift operation.

(b) Number of shifts generally worked.

(c) Number of working days in a month/year.

NOTE—Allow for compulsory holidays

FORM B

(Prescribed under Rule 3(1) of the Registration and Licensing of Industrial Undertakings Rules, 1952 as revised)

APPLICATION FOR REGISTRATION

1. This form is to be used in the following cases:—

(a) industrial undertakings which had taken effective steps as defined in Rule 2(ii) of these Rules, on or before the 8th May 1952, for the production of any articles relatable to the industries specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, as originally enacted.

(b) industrial undertakings which had taken effective steps as defined in Rule 2(ii) of these Rules, on or before the 1st October 1953 for the production of articles relatable to the industries added to the First Schedule by the Industries (Development and Regulation) Amendment Act, 1953.

2. Particulars given in the application should show the position as on 8th May, 1952 or 1st October 1953, as is applicable to the scheduled industry concerned.

NOTE.—Where an industrial undertaking consists of more than one factory, a separate form should be filled and sent, for each of the factories.

1. Scheduled Industry or Industries to which the articles produced relate.

2. Name and address of the applicant.

3. Name of the industrial undertaking.

Address (a) Head Office.

(b) Factory.

4. Ownership. Whether proprietary, partnership, private limited or public limited company.

5. Names of proprietors, partners or Board of Directors and their addresses.

6. Name and address of the owner of the factory in terms of section 3(f) of the Act.

7. Whether sanction for capital issue has been applied for. If so, the number and date of sanction of capital issue. If not, how the undertaking is or is to be financed.

8. What percentage of the total capital has been raised or subscribed.

9. Types, number and values or different classes of shares authorised, issued and paid-up or arrangements being made for—

(a) In the case of companies registered under the Indian Companies Act, 1913—

	Number	Value	Total
(i) Authorised capital—			
Preference shares ..			
Ordinary shares ..			
Deferred shares ..			
Any other class of shares ..			
(ii) Issued Capital—			
Preference shares ..			
Ordinary shares ..			
Deferred shares ..			
Any other class of shares ..			
(iii) Paid-up capital—			
Preference shares ..			
Ordinary shares ..			
Deferred shares ..			
Any other class of shares ..			
(iv) Debentures ..			
(v) Other borrowings ..			
(b) In the case of others—			
(i) Capital invested by the owner excluding borrowings.			
(ii) Shares of each of the partners or members of an association.			
(iii) Borrowings.			

10. Name and address of the Managing Agents, if any.

11. Obligations, rights and privileges of Managing Agents in the constitution and working of the company.

12. Is any foreign collaboration or investment envisaged? If so, the extent and nature of such collaboration. Give a copy of the agreement, if any.

13. Are foreign technicians required? Number and types of such personnel. (Approximate indication may be given).

14. Location or proposed location of the factory.

Tehsil District State

15. Area of land required and whether it has been secured.

16. Particulars of buildings erected.

17. What portion of the factory buildings has been constructed and what proportion in

value does it bear to the entire cost of the factory buildings.

18. Lines of manufacture proposed—

Name of product and bye-product	*Monthly proposed installed capacity

19. Number of estimated working days in a year.

20. Indicate your requirements of rail transport for movement of raw materials and finished products.

21. Estimated requirements of main raw materials.

Name of raw material	Whether indigenous or imported; if latter, country of origin	Quality required per year	Estimated value

22. Requirements of capital equipment—
Total value of equipment required.

(i) Imported—

(a) from sterling area.

(b) from dollar and hard currency area.

(ii) Indigenous.

23. What percentage in value of item 22 has been—

(a) ordered and received.

(b) ordered and not yet received.

* Basis of estimating installed capacity should be clearly stated, viz., whether the operation will be continuous or shiftwise, and the number of days in a month and the number of shifts in a day assumed in estimating monthly capacity.

24. Water Supply—

(a) Will it be ample for the requirements of—

(1) factory and

(2) township or staff quarters (State approximate quantity).

(b) Will it be drawn from public supply?

(c) Effluent problems, if any.

25. Power supply—

(a) Total requirements proposed to be drawn from—

(1) own generating station

(2) public supply

(b) In case of own station, give brief particulars of plant in operation.

26. Staff and Labour

Already employed

Proposed to be
employed on im-
plementation of the
project

(a) Managerial

(b) Supervisory—

Technical

Non-Technical

(c) Clerical

(d) Labour—

Skilled

Semi-skilled

Unskilled

(e) Other categories, if any

27. Give a brief description of the processes involved in the manufacture and the factors favourable for their adoption in the location proposed by you.

Place

Date

Signature of applicant.

(To be filled in by the Government of India)

Date of receipt of the application.

Signature of the receiving Officer.)

FORM 'C'

(Prescribed under Rule 6 of Registration and Licensing of Industrial Undertakings Rules, 1952.)

Registration No.

GOVERNMENT OF INDIA

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 195 .

Certified that the Industrial Undertaking details of which are mentioned below has been registered in terms of Section 10 of the Industries (Development and Regulation) Act, 1951 (LXV of 1951).

Details:

1. Scheduled Industry:
2. Name of industrial undertaking.
Address.
3. Name of Owner—
Address.

Signature of Officer.

SEAL OF
THE MINISTRY.

*[FORM D

[Prescribed under Rule 7(2) of the Registration and Licensing of Industrial Undertakings Rule, 1952 (as revised).]

APPLICATION FOR LICENCE OR PERMISSION.

This form is to be used for application for a licence or permission for the establishment of a new industrial undertaking [vide Section 11 of the Industries (Development and Regulation) Act, 1951].

NOTE.—Where the proposal involves the issue of capital for which consent has to be obtained under the Capital Issue (Continuance of Control) Act, 1947, an application for the consent should be made simultaneously in the form prescribed for that purpose to the Controller of Capital Issues, Ministry of Finance, Government of India, New Delhi.

1. Name of the Scheduled Industry or Industries to which articles proposed to be manufactured relate.

2. Name and address of the applicant.

3. Name and address of the industrial undertaking.

* See f.n. 5 in p. 617.

4. Whether it is proposed to be undertaken by proprietors, partners, private limited or public limited Company.

5. Name and address of the Company.

6. Names of proprietors, partners, or Board of Directors and their addresses.

7. Name and address of the Managing Agents, if any.

8. Obligations, rights and privileges of Managing Agents in the constitution and working of the company.

9. Whether sanction for capital issue has been applied for otherwise how the undertaking is proposed to be financed.

10. Details of proposed capital structure—

(a) In the case of companies registered under the Indian Companies Act, 1913—

Number Value Total.

(i) Authorised Capital—

Preference shares

Ordinary shares

Deferred shares

Any other class of shares ..

(ii) Issued Capital—

Preference shares

Ordinary shares

Deferred shares

Any other class of shares ..

(iii) Paid-up Capital—

Preference shares

Ordinary shares

Deferred shares

Any other class of shares ..

(iv) Debentures.

(v) Other borrowings.

(b) In the case of others—

(i) Capital invested excluding borrowings.

(ii) Share of each of the partners or members of an association.

(iii) Borrowings.

11. Is any foreign collaboration or investment envisaged? If so, the extent and nature of such collaboration. Give a copy of the agreement, if any.

12. Are foreign technicians required? Number and types of such personnel. (Approximate indication may be given).

13. Proposed location of the factory.

Tehsil..... District..... State.....
Reasons for the choice.

14. Lines of manufacture proposed.

Name of product and bye product.

*Monthly proposed
installed capacity.

15. Number of estimated working days
in a year.

16. Estimated requirements of main raw
materials.

Name of raw material	Whether indigenous or imported; if the latter, the country of origin	Quality required per year	Estimated value
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17. Requirements of capital equipment.

Total value of equipment required.

(i) Imported—

(a) from sterling areas.

(b) from dollar and hard currency
areas.

(ii) Indigenous—

18. Indicate your requirements of rail
transport for movement of raw materials and
finished products.

19. Area of land required and whether
it has been acquired.

20. Water supply—

(a) Will it be ample for requirements of—

(i) factory, and

*Basis of estimating installed capacity should be clearly stated, viz., whether the operation will be continuous or shiftwise and the number of days in a month and the numbers of shifts in a day assumed in estimating monthly capacity.

(2) township or staff quarters?
(State approximate quantity).

(b) Will it be drawn from public supply?

(c) Effluent problems, if any.

21. Power supply—

(a) Total requirements proposed to be drawn from—

(1) own generating station.

(2) public supply.

(b) In case of own station give brief particulars of plant in operation.

22. Staff and Labour—

Proposed to be employed
on implementation of the
project.

(a) Managerial.

(b) Supervisory.

Non-Technical

Technical.

(c) Clerical.

(d) Labour—

Skilled.

Semi-skilled.

Unskilled.

(e) Other categories if any.

23. Give a brief description of the processes involved in the manufacture and factors favourable for their adoption.

Place.....

Date.....

Signature of the applicant.

(To be filled in by the Government of India)

Date of receipt of the application.

Signature of the receiving Officer.}

[FORM E

[Prescribed under Rule 7(2) of the Registration and Licensing of Industrial Undertakings Rules, 1952 (As revised)]

APPLICATION FOR LICENCE OR PERMISSION

This form is to be used in the following cases :

- (a) Registered industrial undertakings or undertakings in respect of which a licence or permission has been granted proposing to produce or manufacture new articles (*vide* Section 11A of the Act).
- (b) Registered industrial undertakings or undertakings in respect of which a licence or permission has been granted proposing to effect substantial expansions [*vide* clause (d) of sub-section (1) of Section 13 of the Act.]
- (c) Registered industrial undertakings or undertakings in respect of which a licence or permission has been granted proposing to change the location of the whole or any part of the undertaking [*vide* clause (e) of sub-section (1) of Section 13 of the Act.]

NOTE.—Where the proposal involves the issue of capital for which consent has to be obtained under the Capital Issue (Continuance of Control) Act, 1947, an application for the consent should be made simultaneously in the form prescribed for that purpose to the Controller of Capital Issues, Ministry of Finance, Government of India, New Delhi.

1. Name and address of the applicant.
2. Name and address of the industrial undertaking.
 1. Head Office.
 2. Factory.
3. Number and date of registration or of licence or permission under this Act.
4. Scheduled industry or industries to which the articles already produced or manufactured relate.

NOTE.—Please fill in question 5A, 5B, 5C as may be applicable to your case.

5(A) If it is proposed to manufacture new articles :—

(a) Give the following details—

Particulars of the New articles	Scheduled industry or industries to which they relate	Monthly capacity proposed

- (b) If the articles proposed to be manufactured will bear a new mark, as defined in the Trade Marks Act, 1940 (V of 1940), give particulars of the mark.
- (c) If the articles are the subject of a new patent, give particulars of the patent.
- (d) Is payment of any royalty envisaged?
If so, give full details.
- (e) Give a brief account of the circumstances which justify the manufacture of the new articles and the factors which you consider favourable.

(B) If it is proposed to effect a substantial expansion to the existing undertaking:

- (a) State the lines of proposed expansion—

Name of product	Present monthly installed capacity	Expansion envisaged	*Monthly installed capacity after expansion
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*If any alteration is envisaged in the basis of number of working days per month and shifts per day, previously given at the time of registration or licensing it should be clearly indicated.

- (b) Give a brief account of the circumstances which justify the expansion of the existing unit and the factors which you consider favourable.

(C) If it is proposed to change the location of an undertaking give the following particulars:—

- | | | | |
|--|--------|----------|-------|
| (1) Present local | Tahsil | District | State |
| (2) New location proposed | Tahsil | District | State |
| (3) Reasons for changing the location | | | |
| (4) Whether the change in location will affect the quality or quantity of the articles produced at present. If so, give full particulars of all changes anticipated. | | | |

6. Capital, if any, required for the purpose. How will it be secured? Whether by issue of fresh capital or in the form of loan

or from other sources. Full details to be given including information whether fresh issues or loans have been applied for and the present stage of such applications.

7. Is any foreign collaboration or investment envisaged? If so, the extent and the nature of such collaboration. (Enclose a copy of the agreement, if any).

8. Are foreign technicians required? Number and types of such technicians (Approximate indication may be given).

9. Estimated requirement of main raw materials and their value.

Name of raw material	Indigenous or imported	Quantity used in previous year	Quantity required for full present capacity	Additional quantity necessary for expansion and its value
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10. Requirements of capital equipment, if any.

(i) Imported.

(a) from sterling areas.

(b) from dollar and hard currency areas.

(ii) Indigenous.

11. Indicate your requirements, if any, of additional rail transport for movement of raw materials and finished products.

12. Additional land required, if any; whether it has been acquired or is available.

13. Additional power required and whether arrangements have been made therefor.

14. Additional water required and whether arrangements have been made therefor.

Staff and Labour	Existing	Additional requirements, if any, for production of new articles/effecting substantial expansion/changing the location.
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(a) Managerial

- (b) Supervisory—
 Technical
 Non-Technical
 (c) Clerical
 (d) Labour—
 Skilled
 Semi-skilled
 Unskilled
 (e) Other categories, if any.

Place.....

Date.....

Signature of Applicant.

(To be filled in by the Government of India.)

Date of receipt of the application.

Signature of the Receiving Officer.]

5[FORM 'EE'

(Prescribed under Rule 7(2) of the Registration and Licensing of Industrial Undertakings Rules, 1952 as revised)

APPLICATION FOR LICENCE OR PERMISSION

This form is to be used in the following cases:—

- (1) where an industrial undertaking which was required to be registered under Section 10 but has not been registered within the time fixed for the purpose, proposes to carry on the business of that undertaking after the expiry of such period [vide Clause (a) of sub-section (1) of Section 13 of the Act].
- (2) where an industrial undertaking, the registration in respect of which has been revoked under Section 10A proposes to carry on the business of the undertaking after the revocation [vide Clause (b) of sub-section (1) of Section 13 of the Act].
- (3) where an industrial undertaking to which the provisions of the Act did not originally apply but became applicable after the commencement of the Act for any reason, proposes to carry on the business of the undertaking after the expiry of three months from the date on which the provisions of the Act became so applicable [vide Clause (c) of sub-section (1) of Section 13 of the Act.]

NOTE.—PARTICULARS GIVEN BELOW SHOULD SHOW THE POSITION AS ON THE DATE OF APPLICATION UNLESS OTHERWISE DIRECTED IN THE QUESTIONNAIRE.

1. Name and address of the applicant.

2. Name of the industrial undertaking—

Address:—

(a) Head Office

(b) Factory or Factories.

3. Ownership.

4. Names of proprietors, partners or Board of Directors and their addresses.

5. Name and address of the owner of the undertaking in terms of Section 3(f) of the Act.

6. The Scheduled industry or industries to which the articles manufactured or produced relate.

7. Capital structure—

(a) In the case of companies registered under Indian Companies Act, 1913.

Number Value Total

(i) Authorised Capital—

Preference shares

Ordinary shares

Deferred shares

Any other class of shares

(ii) Issued Capital—

Preference shares

Ordinary shares

Deferred shares

Any other class of shares

(iii) Paid-up Capital—

Preference shares

Ordinary shares

Deferred shares

Any other class of shares

(iv) Debentures.

(v) Other borrowings.

(b) In the case of others.

(i) Capital invested by the owner excluding borrowings.

(ii) Shares of each of the partners or of members of an association.

(iii) Borrowings.

8. Name and address of Managing Agents, if any, and the principal clauses of the managing agency agreement.

9. A copy each of the last three years' Balance Sheets and Profit and Loss Accounts. (To be attached to each copy of the application).

10. (a) Foreign capital invested. Terms of agreement, if any, with foreign collaborator including terms in regard to royalty etc.

(b) Details of foreign technicians employed.

11. *Approximate land under control of the undertaking—

(1) for factory and administration purposes—

(a) in use

(b) available for expansion

(2) for township and other facilities—

(a) in use

(b) available for expansion.

*(This is not applicable to mining concerns).

12. Water Supply—

(a) Is it ample for the requirements of—

(1) factory and

(2) township or staff quarters?

(State approximate quantity).

(b) Is it drawn from public supply?

(c) Effluent problems, if any.

13. Power Supply—

(a) Total requirements drawn from—

(1) own generating station.

(2) public supply.

(b) In case of own station, give brief particulars of plant in operation.

14. (a) Nature of plant and equipment section by section. Main plant and machinery items grouped under different sections following the standard practice in vogue in each industry.

(b) Replacement requirements over next five years.

15. Transport facilities for incoming raw materials and outgoing finished products.

16. Manufacturing activities.

(a) Whether continuous or shift operation.

(b) Number of shifts generally worked.

(c) Number of working days in a month/year

NOTE.—Allow for compulsory holidays and for possible interruptions arising from breakdowns, overhauling and maintenance repairs separately on the basis of your past experience.

(d) *Monthly installed capacity—

*(State the number of working days in a month and the number of shifts in a day).

Name of the manufactured product	Capacity
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17. Past production including bye-product during the last three calendar years.

Name of principal product or bye-product	Quantity	Value
--	----------	-------

NOTE.—In the case of seasonal industries, e.g., sugar, give figures relating to the season.

Head office Factory Total.

18. Staff and Labour employed.

(a) Managerial

(b) Supervisory—

Technical

Non-Technical

(c) Clerical

(d) Labour—

Skilled

Semi-skilled

Un-skilled.

(e) Other categories, if any.

19. (a) Whether any application was made for the registration of this undertaking under the Industries (Development and Regulation) Act, 1951? Give particulars of the No. and date of the application and of the reply thereto.

(b) If no application was made for the registration of this undertaking, give the reasons therefor.

20. Whether the registration of this undertaking has previously been revoked under section 10A of the Act. If so, give particulars of the letter of revocation.

21. Give the following particulars regarding your industrial undertaking as on 8th May, 1952 or as on 1st October, 1953, according as (a) or (b) of clause (bb) of section 3 of the Act applies to your case.

- (i) The total number of staff and labour employed in the factory and head office.

- (ii) Articles manufactured.

Place.....

Date..... Signature of applicant.
(To be filled in by the Government of India).

Date of receipt of the application.

Signature of the receiving Officer.]

⁵[FORM 'F'

(Prescribed under Rule 15(4) of the Registration and Licensing of Industrial Undertakings Rules, 1952 as revised).

Licence No.....

Permission

GOVERNMENT OF INDIA

MINISTRY OF COMMERCE & INDUSTRY

New Delhi, the 195 .

An application No.....dated.....for a Licence having been
Permission

received from

for

....., under Rule 7 of the Registration & Licensing of Industrial Undertakings Rules, 1952, the Central Government, in exercise of the powers conferred by Rule 15(2) of the said Rules, hereby grants this Licence

..... to subject to the following *conditions :—
Permission

(1)

(2)

(3)

() Any prospectus or other document by which the public is invited to subscribe capital for this undertaking shall contain the following statement:

"A Licence|Permission has been obtained from the Central Government for.....

.....of which a copy is open to public inspection at the Head Office of the Company. It must be distinctly understood that in granting this Licence

..... the Government of India do not take any responsibility for
Permission

⁵ See f.n. 5 in p. 617.

*Conditions will vary according to the nature of the case.

the financial soundness of this undertaking or for the correctness of any of the statements made or opinions expressed in regard to it."

(SIGNATURE OF THE OFFICER),
[SEAL OF THE MINISTRY]

⁵[FORM 'G']

(Prescribed under Rule 19 of the Registration and Licensing of Industrial Undertakings Rules, 1952 as revised)

REPORT ON THE PROGRESS MADE IN THE ESTABLISHMENT
OF INDUSTRIAL UNDERTAKINGS

This form is to be used for reporting progress made in the following cases.

- (a) In the establishment of industrial undertakings or substantial expansions, whether registered or licensed;
- (b) In the manufacture of new articles;
- (c) In changing the location of industrial undertakings.

1. Scheduled industry to which the articles manufactured by the undertaking relate.

2. Name and address of the industrial undertakings.

3. Number and date of the Registration Certificate/Licence/Permission issued to the undertaking.

IN THE CASE OF ESTABLISHMENT OF INDUSTRIAL UNDERTAKINGS OF MANUFACTURE OF NEW ARTICLES.

4. Progress made in the raising of Capital including foreign capital, if any.

5. What percentage in value of total requirements of capital equipment has been—

- (a) ordered and received.
- (b) ordered and not yet received.

6. Whether land has been acquired for the factory.

7. Progress made in the construction of the factory and the installation of plant and machinery.

8. Progress made in getting supply of power and water.

⁵ See f.n. 5 in p. 617.

9. Progress made in the recruitment of foreign technicians, if any.

10. Staff and Labour Employed before the
 implementation of Now employed
 the project.

(a) Managerial

(b) Supervisory—
 Technical
 Non-Technical

(c) Clerical

(d) Labour—
 Skilled
 Semi-skilled
 Un-skilled.

(e) Other categories, if any.

11. Principal raw materials stocked.

12. Product and bye-product now manufactured.

Name of product or bye-product	*Present monthly installed capacity	Present daily output

*Basis of estimating installed capacity should be clearly stated, viz., whether operation is continuous or shiftwise, and the number of days in a month and the number of shifts in a day assumed in estimating monthly capacity.

**IN THE CASE OF SUBSTANTIAL EXPANSIONS OR
CHANGE OF LOCATION.**

13. Progress made in the raising of capital including foreign capital, if any, required for the purpose.

14. Whether any land required for the undertaking has been acquired.

15. Progress made in the construction of factory buildings and the installation of plant and machinery at the new site.

16. Whether additional power and water required has been secured.

17. Progress made in the recruitment of foreign technicians, if any. Number and types secured.

18. What percentage in value of total requirement of the capital equipment has been—

- (a) ordered and received.
- (b) ordered and not yet received.

19. Staff and Labour Employed before the substantial expansion or change of location was undertaken. Now employed.

- (a) Managerial
- (b) Supervisory—
Technical
Non-Technical

- (c) Clerical
- (d) Labour—
Skilled
Semi-skilled
Un-skilled.

(e) Other categories, if any.

20. Product and bye-product manufactured.

Name of product or bye-product	*Present monthly installed capacity	Present daily output

*Basis of estimating installed capacity should be clearly stated, viz., whether operation is continuous or shiftwise and the number of days in a month and the number of shifts in a day assumed in estimating monthly capacity.

Place.....

Date.....

Signature of the holder of
Registration Certificate;
Licence/Permission.

THE CENTRAL ADVISORY COUNCIL (PROCEDURAL) RULES, 1952¹

1. *Short title and commencement.*—(1) These rules may be called the Central Advisory Council (Procedural) Rules.

(2) They shall come into force immediately after the commencement of the Act.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context:—

(a) 'the Act' means the Industries (Development and Regulation) Act, 1951 (LXV of 1951).

(b) 'Council' means the Central Advisory Council constituted under section 5 of the Act.

(c) 'Chairman' means the Chairman appointed under sub-section (2) of section 5 of the Act.

(d) 'Secretary' means the officer appointed by the Central Government to carry on the functions of Secretary to the Council.

3. *Chairman.*—The Minister of Commerce and Industry shall be the Chairman of the Council.

4. *Tenure of appointments of Chairman and Members.*—A member of the Council other than the Chairman shall hold office for two years from the date of his appointment and shall be eligible for reappointment.

5. *Resignation of Members.*—A member of the Council may resign his office by letter addressed to the Secretary to the Government of India in the Ministry of Commerce and Industry.

6. *Absence of Members out of India.*—(1) If a member intends to leave India for more than one month he shall intimate the Secretary the date of his departure from and the date of his expected return to India, and

(2) if he intends to be absent from India for a period longer than six months, he shall tender his resignation.

7. *Cessation of membership under certain circumstances.*—A member of the Council shall cease to be member on the happening of any of the following events, namely, if he resigns, becomes of unsound mind, becomes insolvent or be convicted of a criminal offence involving moral turpitude.

8. *Filling of vacancies.*—(1) Any vacancy in the membership of the Council caused by any reason mentioned in rule 7 shall be filled by appointment by the Central Government.

(2) A member appointed to fill a casual vacancy shall hold office for so long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred.

9. *Appointment of substitutes.*—Should a person appointed as member of the Council be prevented from attending a meeting of the

¹ See Notification No. S.R.O. 813. d/- 8.5.52, pub. in Gazette of India, Extraordinary, d/- 8.5.52, Pt. II—Sec. 3, pp. 540-541.

Council, a substitute to take his place may be appointed by the Central Government. Such substitute shall have the rights and privileges of a member for that meeting only.

10. Meetings.—(1) The Central Government may at any time call a meeting of the Council and shall fix the date, time and place of every meeting of the Council.

(2) At least one meeting of the Council shall be held in every year.

(3) Not less than nine members of the Council may by requisition in writing signed by them require the Central Government to call a meeting of the Council at any time and on receipt of such a requisition the Central Government shall call such a meeting at an early date.

11. Proposals to be considered at meetings or by circulation.—Any proposal which the Council is required to consider may be referred to all its members either at its meetings or by circulation among all its members and any question so circulated and approved by a majority of members by signing it shall be as effectual and binding as if such had been passed at a meeting of the Council, provided that at least nine members have recorded their views on the proposal.

12. List of business.—(1) The Secretary shall cause to be prepared and circulated among the members at least 7 days before the meeting of the Council the list of business to be considered at the meeting.

(2) If any member desires to suggest any subject for discussion by the Council, he shall give at least 15 days clear notice.

13. Procedure at meetings.—(1) The Chairman shall preside over meetings of the Council. If the Chairman is not present at any meeting of the Council, the Council shall elect a Chairman from amongst the members present to preside at such a meeting.

(2) Nine members of the Council present in person shall form a quorum at a meeting of the Council.

(3) In the case of a difference of opinion amongst the members of the Council present at a meeting, the opinion of the majority shall prevail.

(4) Each member of the Council shall have one vote, and if there shall be an equality of votes on any question to be decided by the Council, the Chairman or the members presiding shall have a casting vote.

14. Duties of Secretary.—The Secretary shall maintain a record of all business transacted by the Council.

15. Change in addresses of members.—All members shall keep the Secretary informed of any change in their addresses. If they fail to notify their new address, the address in the roll of members maintained by the Secretary shall be deemed to be their address.

16. Validation of acts and proceedings.—No act or proceeding of the Council shall be invalidated or questioned on the ground merely of any vacancy in, or any defect in the constitution of, the Council.

17. *Power of Council to appoint Committees.*—The Council shall have powers to appoint Committees to consider specific questions.

18. *Travelling allowance for attendance at meetings.*—Non-official members of the Council and of its Committees shall be entitled to draw travelling allowances for attending meetings of the Council or the Committees at the rates prescribed by the Central Government from time to time for non-officials.

THE DEVELOPMENT COUNCILS (PROCEDURAL) RULES, 1952.¹

1. *Short title and commencement.*—(1) These rules may be called the Development Councils (Procedural) Rules, 1952.

2. *Definitions.*—In these rules unless there is anything repugnant in the subject or context:—

(a) "Chairman" means a Chairman appointed or elected under these rules.

(b) "Council" means a Development Council constituted under Section 6 of the Act.

(c) "Secretary" means the officer appointed by the Central Government to carry on the functions of Secretary to a Development Council.

(d) "the Act" means the Industries (Development and Regulation) Act, 1951 (LXV of 1951).

3. *Number of members.*—Every Council shall consist of not more than 30 members including the Chairman.

4. *Chairman.*—(1) The first Chairman of a Council shall be appointed by the Central Government from amongst the members of that Council and shall hold office for a period of two years from the date of his appointment. Thereafter the Chairman shall be either nominated by the Central Government or elected by members of that Council as may be decided by the Central Government on each occasion.

(2) The Chairman may resign his office by a letter addressed to the Secretary to the Government of India, Ministry of Commerce and Industry, with a copy to the Secretary to the Development Council concerned. The vacancy caused in the office of the Chairman by such resignation shall be filled by the appointment by the Central Government of another member of the Council as Chairman and the Chairman so appointed shall hold office for so long as the Chairman whose place he fills would have been entitled to hold office had he not resigned.

5. *Tenure of appointment of members.*—(1) A member of a Council shall hold office for two years from the date of his appointment and shall be eligible for re-appointment.

(2) A member of a Council may resign his office by letter addressed to the Secretary to the Government of India, Ministry of Commerce and

¹ See Notification No. S.R.O. 359 d/- 19-2-55, pub. in Gazette of India, Extraordinary, d/- 19-2-55, Pat. II-Sec. 3, pp. 467-469.

Industry, with a copy to the Secretary of the Development Council concerned.

6. *Absence of members out of India.*—(1) If a member of a Council intends to leave India for more than one month, he shall intimate the Secretary of that Council the date of his departure and the date of his expected return to India; and

(2) If he intends to be absent from India for a period longer than six months, he shall tender his resignation.

7. *Cessation of membership under certain circumstances.*—A member of a Council shall cease to be member on the happening of any of the following events, namely, if he resigns, becomes of unsound mind, becomes insolvent or be convicted of criminal offence involving moral turpitude.

8. *Filling of vacancies.*—(1) Any vacancy in the membership of a Council caused by any reason shall be filled by appointment by the Central Government.

(2) A member appointed to fill a casual vacancy shall hold office for so long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred.

9. *Appointment of substitutes.*—Should a person appointed as member of the Council be prevented from attending a meeting of the Council, a substitute to take his place may be appointed by the Central Government. Such substitute shall have the rights and privileges as a member for that meeting only.

10. *Meetings.*—(1) A Council may hold meetings whenever required.

(2) The Secretary shall, with the approval of the Chairman, fix the date, time and place of every meeting of the Council.

(3) At least 10 days' notice shall be given to members for every meeting of the Council.

(4) At least one-third of the number of members of a Council but not less than three members may, by a requisition in writing signed by them, require the Chairman to call a meeting of the Council at any time and on receipt of such a requisition the Chairman shall call a meeting of the Council at an early date.

11. *Proposals to be considered at meetings or by circulation.*—Any proposal which a Council is required to consider may be referred to all its members either at its meetings or by circulation among all its members and any proposal so circulated and approved by a majority of members by signing it shall be as effectual and binding as if such had been passed at a meeting of the Council, provided that at least one-third of the total number of members of a Council but not less than three members have recorded their views on the proposal.

12. *List of business.*—(1) The Secretary shall, with the approval of the Chairman, cause to be prepared and circulated amongst the members at least 7 days before the meeting of a Council, the list of business to be considered by that meeting.

(2) If any member desires to suggest any subject for discussion by a Council, he shall give at least 10 days' clear notice.

(3) No business not in the list shall be considered without the approval of the Chairman.

13. Procedure at meetings.—(1) The Chairman shall preside over the meetings of a Council and in his absence the members present shall elect a Chairman from amongst themselves.

(2) One-third of the total number of members of a Council, but not less than three members, present in person shall form a quorum at a meeting of the Council.

(3) In case of difference of opinion amongst the members of a Council present at a meeting, the opinion of the majority shall prevail.

(4) Each member of a Council shall have one vote and if there shall be an equality of votes on any question to be decided by the Council, the Chairman or the member presiding shall have a casting vote.

14. Duties of Secretary.—(1) The Secretary of a Council shall be in charge of its office and shall be responsible for the correspondence of the Council.

(2) He shall maintain a record of all business transacted by the Council.

(3) He shall carry out such duties as are assigned to him by the Council in the discharge of the functions assigned to it under sub-sections 4 and 5 of section 6 of the Act, and in the preparation and submission of the reports and accounts specified in section 7 of the Act.

15. Authentication of acts and proceedings.—(1) All acts and proceedings of the Council when endorsed by the Chairman or by the Secretary with the approval of the Chairman shall be deemed to be valid acts and proceedings of the Council.

(2) The Chairman, or the Secretary with the approval of the Chairman, shall perform all functions on behalf of the Council in accordance with its decisions.

16. Change in addresses of members.—All members shall keep the Secretary informed of any change in their addresses. If they fail to notify their new address, the address in the roll of members maintained by the Secretary shall be deemed to be their address.

17. Validation of acts and proceedings.—No act or proceedings of a Council shall be invalidated or questioned on the ground merely of any vacancy in, or any defect in the constitution of the Council,

18. Power of Council to appoint Committees.—The Council shall have the power to appoint such committees as it thinks fit and refer to such committees specific questions for consideration.

THE MICA MINES LABOUR WELFARE FUND ACT, 1946¹
ACT XXII OF 1946.

[23rd April, 1946]

An Act to constitute a fund for the financing of activities to promote the welfare of labour employed in the mica mining industry.

WHEREAS it is expedient to constitute a fund for the financing of activities to promote the welfare of labour employed in the mica mining industry;

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Mica Mines Labour Welfare Fund Act, 1946.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. *Imposition and collection of a cess.*—(1) With effect from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, there shall be levied and collected, as a cess for the purposes of this Act, on all mica, in whatever state, exported from the territories to which this Act extends a duty of customs at such rate, not exceeding six and one-quarter *per centum ad valorem*, as may from time to time be fixed by the Central Government by notification in the official Gazette:

Provided that until the 1st day of April, 1947, the rate of duty so fixed shall not exceed two and one-half *per centum ad valorem*.

(2) On the last day of each month or as soon thereafter as may be convenient there shall be paid to the credit of a fund to be called the Mica Mines Labour Welfare Fund (hereinafter referred to as the Fund) the proceeds of the duty of customs recovered during that month after deduction of the expenses, if any, for collection and recovery.

3. *The Mica Mines Labour Welfare Fund.*—(1) The Fund shall be applied by the Central Government to meet expenditure incurred in connection with measures in the opinion of the Central Government necessary or expedient to promote the welfare of labour employed in the mica mining industry.

(2) Without prejudice to the generality of sub-section (1), the Fund may be utilised to defray—

(a) the cost of measures for the benefit of labour employed in the mica mining industry directed towards—

(i) the improvement of public health and sanitation, the prevention of disease, and the provision and improvement of medical facilities,

(ii) the provision and improvement of water supplies and facilities for washing,

(iii) the provision and improvement of educational facilities,

¹ For Statement of Objects and Reasons, see Gazette of India, d/- 1946, Pt. V, p. 156.

(iv) the improvement of standards of living, including housing and nutrition, the amelioration of social conditions and the provision of recreational facilities;

(v) the provision of transport to and from work;

(b) the grant to a State Government, a local authority or the owner, agent or manager of a mica mine, of money in aid of any scheme approved by the Central Government for any purpose for which the Fund may be utilised;

(c) the cost of administering the Fund, including the allowances, if any, of members of the Advisory Committees constituted under section 4, and the salaries and the allowances, if any, of officers appointed under section 5;

(d) any other expenditure which the Central Government may direct to be defrayed from the Fund.

(3) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the Fund, and its decision shall be final.

(4) The Central Government shall publish annually in the official Gazette report of the activities financed from the Fund, together with an estimate of receipts and expenditure of the Fund and a statement of accounts.

4. Advisory Committees.—(1) The Central Government shall constitute *[as many Advisory Committees as it thinks fit but not exceeding one for each State], to advise the Central Government on any matters arising out of the administration of this Act or the Fund.

(2) The members of the Advisory Committee shall be appointed by the Central Government, and shall be of such number and chosen in such manner as may be prescribed by rules made under this Act:

Provided that each Committee shall include an equal number of members representing mica mine owners and workmen employed in the mica mining industry, and that at least one member of each Committee shall be a woman, and at least one member of each Committee shall be a member of the Legislature of the State concerned.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the official Gazette the names of all members of the Advisory Committees.

5. Appointment and powers of officers.—(1) The Central Government may appoint Inspectors, Welfare Administrators and such other officers as it thinks necessary to administer the Fund or to supervise or carry out the activities financed from the Fund.

(2) Every officer so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

* Substituted for "two Advisory Committees, one for the State of Madras and one for the State of Bihar" by Act 3 of 1957.

(3) Any Inspector or Welfare Administrator may—

(a) with such assistance, if any as he thinks fit, enter at any reasonable time any place which he considers it necessary to enter for the purpose of supervising or carrying out the activities financed from the Fund, and

(b) do within such place anything necessary for the proper discharge of his duties.

6. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules to carry into effect the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the making of refunds, remissions and recoveries of the duty of customs imposed by sub-section (1) of section 2;

(b) the composition of the Advisory Committees constituted under section 4, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees shall conduct their business;

(c) the conditions governing the grant of money from the Fund under clause (b) of sub-section (2) of section 3;

(d) the form of the estimate and statement referred to in sub-section (4) of section 3;

(e) the conditions of service and the duties of all officers appointed under section 5;

(f) the furnishing by owners or agents or managers of mica mines of statistical or other information, and the punishment by fine of failure to comply with the requirements of any rule made under this clause.

THE MICA MINES LABOUR WELFARE FUND RULES, 1948¹

1. Short title and extent.—(1) These rules may be called the Mica Mines Labour Welfare Fund Rules, 1948.

(2) They extend to the whole of India except the State of Jammu and Kashmir].

2. Definitions.—In these rules, unless there is anything repugnant in the subject or context,—

(1) "The Act" means the Mica Mines Labour Welfare Fund Act, 1946.

(2) "Advisory Committee" means the Advisory Committee constituted under section 4 of the Act.

¹ See Ministry of Labour Notification No. LMW 5 (8) 46, d/- 2-1-48, published in Gazette of India, d/- 10-1-48, Pt. I-Sec. 1, p. 58.

² The brackets and words "(Bihar and Madras)" were omitted by Notification No. S.R.O. 2054, d/- 13-12-51, vide Gazette of India, d/- 22.12.51, Pt. II-Sec. 3, p. 2169.

³ Substituted for "States of Bihar and Madras" by *ibid*, vide *ibid*.

(3) "Member" means a member of the Advisory Committee present in India.

3. *Composition of Advisory Committee.*—(1) (a) The Committee for the State of Bihar shall consist of the following members, namely:—

(i) An Officer to be appointed by the Central Government called the Welfare Commissioner;

(ii) The Mica Controller, Bihar;

(iii) The Commissioner of Labour, Bihar;

(iv) A Member of the Bihar Legislative Council or Assembly nominated by the Central Government on the recommendation of the Government of Bihar;

(v) Three persons nominated by the Central Government, in consultation with the associations, if any, representing mica mine owners of Bihar;

(vi) Three persons nominated by the Central Government to represent the interests of workmen employed in the mica mining industry of Bihar;

(vii) A woman nominated by the Central Government on the recommendation of the Government of Bihar, if no woman has been nominated under clause (vi).

(b) The Welfare Commissioner shall be the Chairman of the Advisory Committee for the State of Bihar and the Vice-Chairman of the Committee shall be appointed by the Central Government from among the other members.

(2) (a) The Advisory Committee for the State of *[Andhra] shall consist of the following members, namely:—

(i) The Collector of Nellore;

(ii) The President of the District Board, Nellore;

(iii) A Member of the *[Andhra] Legislative Council or Assembly nominated by the Central Government on the recommendation of the Government of *[Andhra];

*[(iv)] One representative of the Central Government;

*[(v)] Two persons nominated by the Central Government, in consultation with the associations, if any, representing mica mine owners of *[Andhra];

*[(vi)] Two persons nominated by the Central Government to represent the interests of workmen employed in the mica mining industry of *[Andhra];

*[(vii)] A woman nominated by the Central Government on the recommendation of the Government of *[Andhra], if no woman has been nominated under '[clause (vi)]'.

* Substituted for "Madras" by Notification No. S.R.O., 686, d/- 16-3-54; vide Gazette of India, d/- 10-2-54, Pt. II-Sec. 3, p. 411.

* Inserted by Notn. No. S.R.O. 812, d/- 15.10.50, vide Gazette of India, d/- 28-10-50, Pt. II-Sec. 3, p. 877.

* Clauses (iv) to (vi) re-numbered as clauses (v) to (vii) by *ibid*, vide *ibid*.

* Substituted for "clause (v)" by *ibid*, vide *ibid*.

(b). The Collector of Nellore shall be the Chairman of the Advisory Committee for the State of '[Andhra]' and the Vice-Chairman of the Committee shall be appointed by the Central Government from among the other members.

¹[(3) (a) The Advisory Committee for the State of Rajasthan shall consist of the following members, namely:—

(i) The Labour Commissioner, Rajasthan;
 (ii) One representative of the Central Government;
 (iii) A member of the Rajasthan Legislative Assembly nominated by the Central Government on the recommendation of the Government of Rajasthan;

(iv) Two persons nominated by the Central Government, in consultation with the associations, if any, representing mica mine owners of Rajasthan;

(v) Two persons nominated by the Central Government, to represent the interests of workmen employed in the mica mining industry of Rajasthan;

(vi) A woman nominated by the Central Government on the recommendation of the Government of Rajasthan, if no woman has been nominated under clause (v).

(b) The Labour Commissioner, Rajasthan, shall be the Chairman for the Advisory Committee for the State of Rajasthan and the Vice-Chairman of the Committee shall be appointed by the Central Government from among the other members.

²[(4) (a) The Advisory Committee for the State of Ajmer shall consist of the following members, namely:—

(i) The Deputy Commissioner, Ajmer;
 (ii) The Labour Officer, Ajmer;
 (iii) One representative of the Central Government;
 (iv) a member of the Ajmer Legislative Assembly (when it is constituted) nominated by the Central Government on the recommendation of the Government of Ajmer;

(v) two persons nominated by the Central Government, in consultation with the associations, if any, representing mica mine owners of Ajmer;

(vi) Two persons nominated by the Central Government to represent the interests of workmen employed in the mica mining industry of Ajmer;

(vii) a woman nominated by the Central Government, if no woman has been nominated under clause (vi).

(b) The Deputy Commissioner, Ajmer, shall be the Chairman of the Advisory Committee for the State of Ajmer and the Vice-Chairman

¹ See En. 4 in p. 648, ante.

² Inserted by Notification No. S.R.O. 2054, d/- 13-12-51, vide Gazette of India, d/- 22-12-51, Pt. II-Sec. 3, p. 2169.

³ Inserted by Notification No. S.R.O. 246, d/- 29-1-52, vide Gazette of India, d/- 9-2-52, Pt. II-Sec. 3, p. 269.

of the Committee shall be appointed by the Central Government from among other members.]

4. *Terms of office.*—(1) A nominated member shall, unless he resigns his office or dies at an earlier date, hold office for a period of 3 years from the date of the notification appointing him a member of the Advisory Committee and shall be eligible for re-nomination:

Provided that an outgoing member may continue in office until the appointment of successor is notified in the *Gazette of India*.

(2) A member nominated to fill a casual vacancy shall hold office for as long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred.

5. *Power to co-opt.*—(1) The Advisory Committee may, at any time and for such period as it thinks fit, co-opt any persons to the Advisory Committee.

(2) A person co-opted under sub-rule (1) shall exercise all the powers and functions of a member under these rules, but shall not be entitled to vote.

6. *Resignation.*—A non-official nominated member may resign his office by letter addressed to the Chairman.

7. *Absence from India.*—(1) Before a non-official nominated member leaves India,—

(a) he shall intimate to the Chairman the date of his departure from and the date of his expected return to India, or

(b) if he intends to be absent from India for a period longer than six months, he shall tender his resignation.

(2) If any nominated member leaves India without taking action as required by sub-rule (1), he shall be deemed to have resigned with effect from the date of his departure from India.

8. *Vacancy of Office.*—A nominated member shall be deemed to have vacated his office—

(a) if he becomes insolvent; or

(b) if he is convicted of any offence which in the opinion of the Central Government involves moral turpitude; or

(c) if he is absent from meetings of the Advisory Committee for three consecutive meetings without leave of absence from the Chairman; or

(d) if, in the opinion of the Central Government, it is undesirable that he should continue to be a member of the Committee.

9. *Disposal of business.*—(1) Every question which the Advisory Committee is required to take into consideration shall be considered either at a meeting or, if the Chairman so directs, by sending the necessary papers to every member for opinion.

(2) When a question is referred to the Advisory Committee for opinion, any member may request that the question be considered at a meeting and thereupon the Chairman may, and if the request is made by five or more members shall, direct that it be so considered.

10. Time and place of meetings.—The Advisory Committee shall meet at such places and times as may be appointed by the Chairman.

¹[**11. Remuneration to members.**—Each non-official member, including a non-official member co-opted under rule 5 shall be entitled to the following allowances for attending each meeting of the * * *] Advisory Committee or any of its Sub-Committees provided that the non-official member is not resident at the place where the meeting is held.

Travelling allowance

(a) In respect of journey by air. Actual fares paid.

(b) In respect of journey by rail. $1\frac{1}{2}$ first class fares.

(c) In respect of journey by road. Where the journey is performed entirely by road, mileage at the rates admissible to Central Government Servants of the first grade subject to the condition that the member concerned furnishes a certificate to the effect that the journey was undertaken by road to avoid loss of time which journey by rail would have entailed, provided further that if the distance travelled by road exceeds 75 miles in a single journey, mileage allowance will be payable only for the first 75 miles for each journey.

Daily allowance.

Rs. 10 for each day of any meeting or meetings subject to a maximum of Rs. 30 for any one calendar month.

Non-official members who are resident at the places where the meetings are held shall be entitled only to the actual cost of conveyance hire subject to a maximum of Rs. 10 per day.

The allowances referred to above shall be admissible only on the production of a certificate by the non-official members to the effect that they have not claimed or drawn travelling or daily allowance in respect of the journeys and halts from any other sources.]

12. Notice of meetings and list of business.—(1) Notice of not less than 15 days from the date of posting shall be given to every member of the time and place fixed for each ordinary meeting, and every member shall be furnished with a list of business to be considered at the meeting:

¹ Substituted for original rule 11 by Notification No. S.R.O. 239, d/- 27-6-50, vide Gazette of India, d/- 8-7-50, Pt. II-Sec. 3, p. 234.

² The words "Mica Mines Labour Welfare Fund" were omitted by Notification No. S.R.O. 2054, d/- 13-12-51, vide Gazette of India, d/- 22.12.51, Pt. II-Sec. 3, p. 2169.

Provided that when an emergency meeting is called by the Chairman such notice shall not be necessary.

(2) No business which is not on the list shall be considered at a meeting without the permission of the Chairman.

13. *Advisory Committee to be informed of expenditure.*—A memorandum detailing any grants made or expenditure incurred from the Fund since the last meeting shall be laid before each meeting of the Advisory Committee.

14. *Other matters to be considered by Advisory Committee.*—(1) The Advisory Committee shall, besides carrying out its statutory duties, consider and advise upon any matter concerning these Rules referred to it by the Central or State Government for advice.

(2) The Advisory Committee shall also consider the budget and any matter that may be laid before it by the Chairman. It shall be obligatory on the Chairman to place before the Advisory Committee any matter at the request of not less than five members.

15. *President at meetings.*—The Chairman shall preside at every meeting at which he is present and in his absence the Vice-Chairman shall preside.

16. *Quorum.*—No business shall be transacted at a meeting of the Advisory Committee whether an ordinary or emergency meeting unless at least three members having the right to vote are present of whom the Chairman or Vice-Chairman shall be one;

Provided that if at any meeting less than three such members attend, the Chairman may adjourn the meeting to a date not less than seven days later, informing the members present and notifying other members that he proposes to dispose of the business at the adjourned meeting whether there is a quorum or not and it shall thereupon be lawful to dispose of the business at the adjourned meeting irrespective of the number of members attending it.

17. *Recommendation by majority.*—(1) Every question at a meeting of the Advisory Committee shall be decided by a majority of votes of the members present and voting but the minority shall in all cases have the right of requiring their dissent to be noted.

(2) Every question referred to the members for opinion shall, unless the Chairman in pursuance of sub-rule (2) of rule 9 reserves it for consideration at a meeting, be decided in accordance with the opinion of the majority recording opinion within the time allowed.

(3) In the case of an equal division of votes or opinions the Chairman shall give an additional vote or opinion.

18. *Minutes of meetings.*—(1) The proceedings of each meeting of the Advisory Committee shall be circulated to all members and thereafter recorded in a minute book, which shall be kept for permanent record.

(2) The record of the proceedings of each meeting shall be signed by the Chairman or Vice-Chairman, as the case may be.

19. Headquarters of the Advisory Committees.—(1) The headquarters of the Advisory Committee for the State of Bihar shall be at such place as may be fixed by the Central Government and of ²[the Advisory Committee for any other State at such places as may be fixed by the State Government concerned.]

(2) The Chairman, Vice-Chairman and Secretary of the Advisory Committee shall be the executive of the Committee and exercise the executive functions of the Committee on behalf of the Committee.

20. Staff of the Advisory Committees.—(1) Subject to the budget provision, and the provisions of rule 24, the Chairman of each Advisory Committee may appoint technical and secretarial staff including a Secretary (who shall ordinarily be a whole time officer paid from the Fund) to assist him in carrying out his duties, may fix the scale of establishment and the salaries and allowances and determine other conditions of service of officers and servants employed by him including the security to be taken from them:

Provided that the creation of a post carrying a salary exceeding Rs. 100 per month for more than six months and appointment thereto shall require the previous sanction of the Central Government:

Provided further that the scales of pay of servants appointed by the Chairman under this sub-rule shall be in accordance with the scales sanctioned by the Central Government for similar posts.

(2) Persons appointed by the Chairman and paid from the Fund shall not be deemed to be Government servants notwithstanding that the Central Government may direct that any service rules applicable to Government servants may apply with or without modifications to such persons.

(3) The Chairman may authorise the technical and secretarial staff to give technical and secretarial assistance to the Finance Sub-Committee or to any other authority exercising advisory functions in connection with the Act or to any person or authority expending grants obtained from the Fund.

21. Finance Sub-Committee.—(1) The Advisory Committee shall elect from among its members four persons of whom two shall be persons representing mica mine owners and two representing mica mine workers, to be a Finance Sub-Committee of which the Vice-Chairman of the Advisory Committee who shall be an additional member shall be the President.

(2) The Advisory Committee may at any time co-opt persons to the Finance Sub-Committee and a person co-opted shall exercise all the powers and functions of a member of such Sub-Committee, but shall not be entitled to vote and shall not solely by reason of being so co-opted be a member of the Advisory Committee.

² Substituted for "the Advisory Committee for the State of Madras at such place as may be fixed by the Government of Madras" by Notification No. S.P.O. 2032, d/- 15.12.51, *vide* Gazette of India, d/- 22.12.51, Pt. II-Sec. 3, p. 2169.

(3) Notice of every meeting of the Finance Sub-Committee shall be sent to the Chairman of the Advisory Committee who may attend such meeting if he so desires, and if he does so attend, he shall notwithstanding anything in sub-rule (1) preside and shall be entitled to vote.

(4) The meetings and proceedings of the Finance Sub-committee shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Advisory Committee in so far as the same are applicable thereto.

22. Duties of the Finance Sub-Committee.—The duties of the Finance Sub-Committee shall be to frame schemes of expenditure, to advise on the budget drawn up by the executive of the Advisory Committee and on the accounts of the Advisory Committee and also in regard to all expenditure debitable to the Fund, and to consider all schemes referred to in proviso (ii) to rule 24.

23. Budget.—(1) The annual budget of the Fund as prepared by the executive of the Committee shall be considered by the Advisory Committee *[* * *] each year. The budget as approved by the Advisory Committee shall be submitted *[not later than the first day of October each year] for sanction to the Central Government, which may make such alterations therein as it considers suitable:

Provided that the *[Advisory Committee for a State other than the State of Bihar shall submit its budget to the Central Government through the State Government].

(2) The budget to be forwarded to the Central Government shall be accompanied by detailed self-contained notes explaining any new schemes included therein.

24. Schemes of expenditure.—(1) The sanction of the Central Government to the budget shall, if no specific mention is made to the contrary, be deemed to include sanction to expenditure on all the schemes included in the budget.

(2) The Chairman shall have power, subject to the provision in the sanctioned budget, to incur expenditure on administrative staff and welfare schemes:

Provided

(i) that he shall have no power to sanction any scheme not included in the budget and involving a non-recurring expenditure exceeding Rs. 10,000 or a recurring cost exceeding Rs. 1,000 a year, and

(ii) that any new scheme within these limits shall require the approval of the Finance Sub-Committee before any expenditure on it is incurred.

*The words "in January of" were omitted by Notification No. S.R.O. 307, d/- 21.2.51, vide Gazette of India, d/- 3.3.51, Pt. II-Sec. 3, p. 359.

*Inserted by *ibid.*, vide *ibid.*

*Substituted for "Advisory Committee for Madras shall submit its budget to the Central Government through the Government of Madras" by Notification No. S.R.O. 2054, d/- 13.12.51, vide Gazette of India, d/- 22.12.51, Pt. II-Sec. 3, p. 2169.

25. *Distribution of cess.*—The proceeds of the cess available for distribution shall be distributed by the Central Government among mica producing areas in proportion to their production or in such manner as may be decided in consultation with the Government of those areas.

¹[26. *Credit to the Fund.*—The amount of cess collected shall be credited to the Central Revenues, as soon as it is collected, and an equivalent amount, after deduction of such percentage as the Central Government may fix by notification in the official Gazette shall be transferred simultaneously to the Fund in a special account under the Central Government to be maintained by such officer as the Central Government may appoint in this behalf].

²[27. *Refund and recovery of cess.*—(1) Refund of cess erroneously levied or paid and recovery of cess short-levied or erroneously refunded shall be made in accordance with the provisions of the Sea Customs Act, 1878 (VIII of 1878), and the Rules made thereunder relating to refund, remission and recovery of customs-duties under that Act so far as the same may be applicable.

(2) When it is proved to the satisfaction of the Central Government or of any person authorised in this behalf by the Central Government, that any consignment of mica, once exported out of India, on which cess under section 2 of the Act had been collected, has actually been reshipped back to India for whatever reasons, the Central Government or the person so authorised may order refund of an amount equal to the cess so collected on such mica less the expenses for collection and recovery to the party from whom the cess was previously collected provided that the party concerned puts in a claim for refund within three months from the date on which the particular consignment of mica, so reshipped back, reaches India.]

28. *Conditions of grants to the Government of any State other than the State of Bihar.*—(1) The Central Government shall furnish the Government ³[of any State other than the State of Bihar] not later than the 1st day of July each year with an estimate of the proceeds of the cess likely to be made available for expenditure during the following financial year in the State. The Government ⁴[of such State] shall inform the Advisory Committee accordingly.

(2) The Government ⁵[of such State] shall forward to the Central Government the budget submitted by the Advisory Committee not later than the 1st day of October each year. The Central Government may sanction the budget with or without modifications.

¹ Substituted for original rule 26 by Ministry of Labour Notification No. LW 25(1), d/- 29-7-48.

² Substituted for original rule 27 by Notification No. S.R.O. 860, d/- 2-11-50, vide Gazette of India, d/- 4-11-50, Pt. II-Sec. 3, pp. 898-899.

³ Substituted for "of Madras" by Notification No. S.R.O. 2054, d/- 13-12-51, vide Gazette of India, d/- 22-12-51, Pt. II-Sec. 3, p. 2169.

⁴ Substituted for "of Madras" by Notification No. S.R.O. 2054, d/- 13-12-51, vide Gazette of India, d/- 22-12-51, Pt. II-Sec. 3, p. 2169.

(3) The Central Government may give general or specific directions to the Government ¹[of such State] for ensuring co-ordination and uniformity in the preparation of welfare schemes and for proper administration thereof.

29. *Statement of Accounts.*—The accounts of the Fund shall be maintained and audited in such manner and by such officers as may be approved by the Central Government.

30. *Statistical and other information to be furnished.*—(1) The owner, agent or manager of a mica mine shall furnish such statistics or other information, as the Central Government or any other person authorised by the Government in writing in this behalf may by written order require for the purposes of the Act, in such form or manner and within such time as may be specified in the order.

(2) Any owner, agent or manager of a mica mine who without reasonable excuse fails to furnish the statistical or other information as required under sub-rule (1) or furnishes statistical or other information containing a statement, entry or detail which is not to the best of his knowledge or belief true, shall be punishable with fine which may extend to five hundred rupees.

THE MICA MINES LABOUR WELFARE OFFICE ESTABLISHMENT (CONTRIBUTORY PROVIDENT FUND) RULES, 1950.¹

1. *Short title.*—(1) These rules may be called the Mica Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1950.

(2) They shall be deemed to have come into force with effect from the 1st April 1950.

2. *Definitions.*—In these rules unless the context otherwise requires—

²[(i) 'Accounts Officer' means in relation to Ajmer, the Accountant General of Central Revenues and in relation to other States, the Accountant General of the respective States.

(ii) 'Controlling Officer' means in relation to Bihar, the Welfare Commissioner, Mica Mines Labour Welfare Fund, Dhanbad, and in relation to other States, the Chairman of the Mica Mines Labour Welfare Fund Advisory Committee for the respective States.]

(iii) 'Emoluments' means pay, leave salary or subsistence grant, as defined in the Fundamental Rules, and includes—

(a) any wages paid from the Welfare Fund to employees not remunerated by fixed monthly pay; and

¹ See *fn. 1* in pre-page.

² See Notification No. S.R.O. 774, d/- 30th September, 1950.

³ Substituted for cl. (i) and (ii) by Notification No. S.R.O. 1532, d/- 4-5-54; vide Gazette of India, d/- 8-5-54, Pt. II-Sec. 3, p. 971.

(b) any remuneration of the nature of pay received in respect of foreign service (i.e., service rendered with any other employer with the permission of the Controlling Officer.)

(iv) 'Employees' means any person holding an appointment, the emoluments of which are paid from the Welfare Fund;

(v) 'Family' means—

(a) in the case of a male subscriber, the wife, or wives and children of the subscriber, and the widow, or widows and children of a deceased son of the subscriber;

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community to which she belongs to be entitled to maintenance she shall henceforth be deemed to be no longer a member of the subscriber's family in matters to which these rules relate, unless the subscriber subsequently indicates by express notification in writing to the Accounts Officer through the Controlling Officer that she shall continue to be so regarded;

(b) in the case of a female subscriber, the husband and children of the subscriber, and the widow or widows and children of a deceased son of the subscriber;

Provided that if a subscriber by notification in writing to the Accounts Officer through the Controlling Officer, expresses her desire to exclude her husband from her family, the husband shall henceforth be deemed to be no longer a member of the subscriber's family in matters to which these rules relate, unless the subscriber subsequently cancels formally in writing her notification excluding him.

NOTE 1.—'Children' means legitimate children.

NOTE 2.—An adopted child shall be considered to be a child when the Controlling Officer, or when any doubt arises in the mind of the Controlling Officer, the solicitor to the Government of India, is satisfied that under the personal law of the subscriber, adoption is legally recognised as conferring the status of a natural child, but in this case only.

(vi) 'Provident Fund' means the Mica Mines Labour Welfare Office Establishment Contributory Provident Fund.

(vii) 'Subscriber' means any employee of the Welfare Fund admitted to the Provident Fund.

(viii) 'Welfare Fund' means the Mica Mines Labour Welfare Fund constituted under the Mica Mines Labour Welfare Fund Act, 1946.

(ix) 'Year' means a financial year.

²[3. *Constitution and management of the Provident Fund.*—The Provident Fund shall be administered by the Controlling Officer and shall be maintained by the Accounts Officer in rupees in India.

²Substituted for original rules 3, 4 and 5 by Notification No. S.R.O. 1512, d/- 4-5-54; vide Gazette of India, d/- 8-5-54, Pt. II-Sec. 3, p. 971.

4. These rules shall apply to every employee holding a permanent and nonpensionable post in a substantive capacity:

Provided that a person appointed on probation to a permanent post or appointed to officiate in a post which is vacant or the permanent incumbent of which does not draw any part of the pay or count service may, if he is confirmed without interruption, be allowed to join the Provident Fund with retrospective effect from the date of his joining the service. Provided further that an employee in temporary service may also be admitted to the Provident Fund, with the written consent of the Controlling Officer, with retrospective effect from the date he joined the service, if he has been employed in connection with the Fund for not less than a year and is in the opinion of the Controlling Officer likely to remain so employed for at least another two years.

NOTE.—No employee who is in receipt of a pension from Government shall be admitted to the Provident Fund.

5. *Nomination.*—(1) A subscriber shall, as soon as may be after joining the Provident Fund, send to the [Accounts Officer through the Controlling Officer] a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the Provident Fund in the event of his death before that amount has become payable or having become payable has not been paid:

Provided that if, at the time of making the nomination, the subscriber has a family, the nomination shall not be in favour of any person or persons other than the members of his family.

(2) If a subscriber nominates more than one person under sub-rule (1), he shall specify in the nomination the amount or share payable to each nominee in such manner as to cover the whole of the amount that may stand to his credit in the Fund at any time.

(3) Every nomination shall be in such one of the Forms set forth in the First Schedule as is appropriate in the circumstances.

(4) A subscriber may at any time cancel a nomination by sending a notice in writing to the Accounts Officer through the Controlling Officer:

Provided that the subscriber shall along with such notice send a fresh nomination made in accordance with the provisions of this rule.

(5) A subscriber may provide in a nomination—

(a) in respect of any specified nominee that in the event of his predeceasing the subscriber, the right conferred upon that nominee shall pass to such other person as may be specified, in the nomination:

(b) that the nomination shall become invalid in the event of the happening of a contingency specified therein:

Provided that if at the time of making the nomination the subscriber has no family, he shall provide in the nomination that it shall become invalid in the event of his subsequently acquiring a family.

* Substituted for "Controlling Officer" by Notification No. S.R.O. 719, d/- 23-3-55; vide Gazette of India, d/- 2-4-55, Pt. II-Sec. 3, p. 647.

(6) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause (a) of sub-rule (5) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of clause (b) of sub-rule (5) or the proviso thereto, the subscriber shall send to the Accounts Officer through the Controlling Officer a notice in writing cancelling the nominations together with a fresh nomination made in accordance with the provisions of this rule.

(7) Every nomination made, and every notice of cancellation given by a subscriber shall, to the extent that it is valid, take effect on the date on which it is received by the Accounts Officer through the Controlling Officer.]

6. *Subscriber's account.*—An account shall be prepared in the name of each subscriber and maintained by the Accounts Officer in the form set forth in the Second Schedule appended to these rules. “[The Accounts Officer shall issue to each subscriber an annual statement of account in the form set forth in the Third Schedule appended to these Rules.]

7. *Conditions and rate of subscriptions.*—(1) A subscriber shall subscribe monthly to the Provident Fund when on duty or foreign service.

(2) A subscriber may, at his election, not subscribe during leave.

(3) The subscriber shall intimate his election not to subscribe during leave by a written communication to the Accounts Officer through the Controlling Officer before he proceeds on leave.

(4) Failure to make due and timely intimation shall be deemed to constitute an election to subscribe.

(5) The election of a subscriber intimated under this “[rule] shall be final.

(6) A subscriber shall not subscribe to the Provident Fund on extraordinary leave without pay or under suspension. He shall, however, on return from a period of such leave without pay or on reinstatement after a period passed under suspension be allowed the option to subscribe for that period, at the discretion of the Controlling Officer. The amount of subscription to be paid shall also be determined by the Controlling Officer, the general principle to be observed being that the subscription should be calculated on half the emoluments drawn by the employee before he proceeded on leave without pay or was placed under suspension.

8. (1) The amount of subscription shall be fixed by the subscriber himself subject to the following conditions:—

(a) It shall be expressed in whole rupees:

Provided that if the emoluments of the subscriber do not exceed fifty rupees a month, the amount may be any multiple of a half rupee;

(b) It may be any sum so expressed at a rate not exceeding 12½ per cent. (i.e., two annas in the rupee) and not less than 6½ per cent. (i.e., one anna in the rupee) of his monthly emoluments.

* Added by Notification No. S.R.O. 1532, d/- 4-3-54; vide Gazette of India, d/- 8-3-54, Pt. II-Sec. 3, p. 971.

* Substituted for “sub-rule” by *ibid*; vide *ibid*.

¹[Provided that in the case of an employee who under the Rules is allowed to join the Provident Fund with retrospective effect, such monthly subscription shall not be less than ten per cent. of his pay until all arrears of such subscriptions are paid in full.] ²[In the case of a person already subscribing at a rate higher than 10 per cent. of his pay the amount paid in excess of 6½ per cent. of his pay shall be adjusted against the recovery of his arrears.]

(2) For the purpose of sub-rule (1) the emoluments of a subscriber shall be—

(a) in the case of a subscriber who was on duty on the 31st March of the preceding year, the emoluments to which he was entitled on that date;

(b) in the case of a subscriber admitted to the Provident Fund on a subsequent date, the emoluments to which he was entitled on such subsequent date;

(c) in the case of a subscriber who was on deputation out of India on the said date or was on leave on the said date and continues to be on leave and has elected to subscribe during such leave the emoluments to which he would have been entitled had he been on duty; and

(d) in the case of a subscriber who was on leave on the said date and elected not to subscribe during such leave or was under suspension on the said date the emoluments to which he was entitled on the first day after his return to duty.

(3) The subscriber shall intimate the fixation of the amount of his monthly subscription for each year on the basis of his emoluments and rate permissible as provided in sub-rule (2). The amount so fixed shall remain unchanged throughout the year:

Provided that if a subscriber is on duty for a part of a month and on leave for the remainder of that month, and if he has elected not to subscribe during leave the amount of the subscription shall be proportionate to the number of days spent on duty in the month.

³[Provided further that if a subscriber is permitted to subscribe for the period of leave without pay or for the period spent under suspension, the amount of subscription shall be determined as provided in sub-rule (6) of rule 7.]

9. Realisation of Subscription.—(1) When the emoluments are drawn on the establishment pay bills, recovery of subscription to and the principal and interest of advances granted from the Provident Fund shall be made by deduction from the pay bills.

(2) When the emoluments are drawn otherwise, the subscriber shall forward his dues monthly to the Accounts Officer.

¹ Added by *ibid*; *vide ibid*.

² Added by Notification No. S.R.O. 719, d/- 23-1-55; *vide* Gazette of India, d/- 2-4-55, Pt. II-Sec. 3, p. 647.

³ Added by Notification No. S.R.O. 1552, d/- 4-3-55; *vide* Gazette of India, d/- 8-5-55, Pt. II-Sec. 3, p. 972.

10. *Contribution by the Welfare Fund.*—¹[(1)] The Controlling Officer shall make yearly a contribution to the account of each subscriber from the Welfare Fund:

Provided that if a subscriber quits service or dies during the course of a year, proportionate contribution shall be credited to his account for the period between the close of the preceding year and the date of his retirement or death, as the case may be.

(2) The rate of contribution made by the Controlling Officer shall be 6½ per cent. (1/16th) of the subscriber's emoluments drawn during the year during which he subscribed to the Fund:

Provided that in case of an employee who is allowed to join the Provident Fund with retrospective effect such contribution shall not be less than ten per cent. of the subscriber's emoluments ²[and shall not be higher than the rate which the subscriber himself subscribes to the Fund during the period of recovery of arrears of subscription]:

Provided further that for the period of leave during which he elected to subscribe the emoluments would mean the emoluments to which he would have been entitled had he been on duty, and for the period of leave without pay and for the period spent under suspension for which he was permitted to subscribe under sub-rule (6) of rule 7, the emoluments would mean the emoluments as determined by the Controlling Officer under the said rule.]

(3) The amount of contribution shall be rounded off to the nearest whole rupee, (eight annas counting as the next higher rupee).

11. *Interest.*—³[(1)] The Controlling Officer shall pay to the credit of the account of a subscriber interest, at such rate as the Central Government may from time to time prescribe for the payment of interest ⁴[on a subscriber's accumulations in the Provident Fund].

⁵[(2) In addition to any amount to be paid under rule 17, interest thereon upto the end of the month preceding that in which payment is made, or upto the end of the sixth month after the month in which such amount became payable, whichever of these periods be less, shall be payable to the persons to whom such amount is to be paid; provided that no interest shall be paid in respect of any period after the date which the Accounts Officer has intimated to that person (or his agent) as the date on which he is prepared to make payment in cash, or if he pays by cheque, after the date on which the cheque in that person's favour is put in the post.]

¹ Substituted for original sub-rules (1) and (2) by *ibid*; *vide ibid*.

² Substituted for the words "until all arrears of such contribution are paid up in full" by Notification No. S.R.O. 719, d/- 23-3-55; *vide Gazette of India*, d/- 2-4-55, Pt. II-Sec. 3, p. 647.

³ Rule 11: renumbered as sub-rule (1) of that rule and after sub-rule (1) as so renumbered new sub-rules (2) and (3) added by Notification No. 1532, d/- 4-5-54; *vide Gazette of India*, d/- 8-5-54, Pt. II-Sec. 3, p. 971.

⁴ Substituted for "on subscriptions to General Provident Fund on the amount at his credit in the Provident Fund" by *ibid*; *vide ibid*.

¹[(3) Interest shall be credited with effect from the 31st March of each year in the following manner:—

(i) on the amount at the credit of a subscriber on the 31st March of the preceding year, less any sums withdrawn during the current year—interest for twelve months;

(ii) on sums withdrawn during the current year—interest from the 1st April of the current year up to the last day of the month preceding the month of withdrawal;

(iii) on all sums credited to the subscriber's account after the 31st March of the preceding year—interest from the date of deposit up to the 31st March of the current year;

(iv) the total amount of interest shall be rounded to the nearest rupee in the manner provided in sub-rule (3) of rule 10;

Provided that when the amount standing at the credit of a subscriber has become payable, interest shall thereupon be credited under this sub-rule in respect only of the period from the beginning of the current year or from the date of deposit, as the case may be, up to the date on which the amount standing at the credit of the subscriber became payable.]

12. *Advances*.—When the pecuniary circumstances of a subscriber are such that indulgence is absolutely necessary, a temporary recoverable advance may, at the discretion of the Controlling Officer, be granted to a subscriber out of the amount standing to his credit in the Provident Fund, on the conditions that—

(i) the advance is required to pay expenses on behalf of a subscriber or his family on any of the following:

(a) Prolonged illness or medical attention,

(b) Overseas passage for reasons of health or education,

(c) marriage, funerals or ceremonies which by his religion it is incumbent upon the subscriber to perform,

²[(d) education outside India, whether for academic, technical, professional or vocational course,

(e) medical, engineering and other technical or specialised courses in India beyond the High School stage, provided that the course of study is not less than three years,]

(ii) the advance is expressed in whole rupees and shall not, except for special reasons, exceed three months' pay of the subscriber and shall in no case, exceed the amount of subscriptions and interest thereon standing to his credit in the Provident Fund,

(iii) a written request is made to Controlling Officer showing reasons for the request;

Provided that if the reason is of a confidential nature it may be communicated to the Controlling Officer personally or confidentially.

¹See *fn.* 3 in p. 661, *ante*.

²Added by Notification No. S.R.O. 1512, d/-4-5-54 vide *Gazette of India*, d/- 1-5-54, Pt. II-Sec. 3, p. 971.

*[13. Any advance shall be recovered from the subscriber in such number of equal monthly instalments as the Controlling Officer may direct but the number shall not be less than 12 unless the subscriber so elects or in any case more than 24, the amount of advance being raised or reduced, if necessary, to admit of the fixation of such instalments. The instalments shall be expressed in whole rupee and recovered from the subscriber's salary in the manner indicated in rule 9. Recovery shall commence on the first occasion after the advance is made on which the subscriber draws emoluments, other than leave salary or subsistence grant, for a full month.

*[Explanation.—Salary means duty pay and leave salary.]

14. After the principal of the advance has been fully repaid, interest thereon shall be recovered in one instalment at the rate of 1/5th per cent. of the principal for each month or broken portion of a month during the period between the drawal and complete repayment of the principal.

Provided that when the advance is distributed to be recovered in more than 19 instalments, the interest may be recovered in two instalments.]

*[15.] *Deductions.*—Subject to the conditions that no deductions may be made which reduce the credit by more than the amount of any contribution by the Controlling Officer with interest thereon credited under rules 10 and 11, before the amount standing to the credit of a subscriber in the Provident Fund is paid out of the Fund, the Controlling Officer may direct the deductions therefrom and payment to the Welfare Fund of—

(a) any amount, if a subscriber has been dismissed from the service for grave misconduct:

Provided that, if the order of dismissal is subsequently cancelled, the amount so deducted shall, on his reinstatement in the service, be replaced at his credit in the Provident Fund.

(b) any amount, if a subscriber resigns his employment under the Welfare Fund within *[five years] of commencement of service thereof otherwise than by reasons of superannuation or a declaration, by competent medical authority that he is unfit for further service:

(c) any amount due under liability incurred by the subscriber to the Welfare Fund.

)* * * *)

*[16.] *Final withdrawal of accumulations in the Provident Fund.*—The amount standing to the credit of a subscriber shall become payable at

* Substituted for original rule 15 by *ibid*; *vide ibid*.

* Added by Notification No. S.R.O. 719, d/- 25-3-55; *vide Gazette of India*, d/- 2-4-55, Pt. II-Sec. 3, p. 647.

* Original rule 14 renumbered as rule 15 by Notification No. S.R.O. 1552, d/- 4-5-54; *vide Gazette of India*, d/- 5-5-54, Pt. II-Sec. 3, p. 971.

* Substituted for "three years" by *ibid*; *vide ibid*.

* Original rules 15 and 16 omitted by *ibid*; *vide ibid*.

* Original rules 17 and 18 renumbered as rules 16 and 17 respectively by *ibid*; *vide ibid*.

the time of quitting service or the death of the subscriber in the manner provided by these rules.

²[17]. The total accumulations in the account of a subscriber ³[subject to any deductions under rule 15] shall be paid as follows:—

(i) to the subscriber on his ceasing to be an employee;
 (ii) in the event of the death of the subscriber and to having made a nomination in accordance with these rules, to the nominee or nominees, and in the event of such nominee or nominees predeceasing the subscriber, to the alternate nominee or nominees, in the manner indicated in the declaration form; or

⁴[(iii) in the event of the death of the subscriber without having made a nomination in accordance with these rules or whose nominee or nominees or alternate nominee or nominees has/have not survived the subscriber, to the members of his family in equal shares:

Provided that no share shall be payable to—

- (a) sons who have attained legal majority;
- (b) sons of a deceased son who have attained legal majority;
- (c) married daughters whose husbands are alive;
- (d) married daughters of a deceased son whose husbands are alive,

if there is any member of the family other than those specified in clauses (a), (b), (c) and (d):

Provided also that the widow or widows and the child or children of a deceased son shall receive between them in equal parts only the share which that son would have received if he had survived the subscriber and had been exempted (by?) the provisions of clause (a) of the proviso.]

¹See fn. 3 in p. 663, *ante*.

²Substituted for "less the amount of un-recovered advance and interest thereon, if any" by *ibid*; *vide ibid*.

³Substituted for original clause (iii) by *ibid*; *vide ibid*.

[FIRST SCHEDULE

Form of Declaration

Name of Subscriber. Date of Acceptance of nomination by Accounts Officer.
Account No.

1. I hereby nominate the persons mentioned below to receive the amount that may stand to my credit in the Provident Fund, in the event of my death before the amount has become payable, or having become payable, has not been paid, and direct that the said amount shall be distributed among the said persons in the manner shown below against their names.

2. I also request that the amount payable as above to the minors be paid to the persons named against them:—

Name and address of the nominee	Name and address of the alternate nominee in the event of the person so nominated predeceasing	Relationship with the subscriber	Whether major or minor, If minor state age	Share of deposit payable	Name and address of the person to whom share is to be paid on behalf of minor	Sex and percentage of person referred to in previous column	Contingencies on the happening of which the nomination shall become invalid	Remarks
1	2	3	4	5	6	7	8	9

3* I hereby cancel the declaration made by me previously on the.....(Date).

* To be scored out if not applicable. (Signature of subscriber)

Witnesses:— Date of declaration.....

1..... 2.....
Signature of witness Signature of witness

Name and address..... No. 1 Name and address..... No. 2

* Substituted for the First Schedule and the Second Schedule by Notification No. S.R.O. 1552, d/- 4-5-54; vide Gazette of India d/- 8.5.54, Pt. II-Sec. 3, p. 971.

SECOND SCHEDULE

*Provident Fund Account and Abstract Balance of each subscriber*Name of subscriber.....appointment or appointments held under
the Welfare Fund.....

Corresponding date(s) of appointment.....

Account No.....

Date of admission to the Provident Fund.....

Remarks or special provision, if any.....

Pay on 31st March of preceding year Rs. 19-	Subscription				Contribution by the Welfare Fund		
	Subscription	Refund of withdrawals	Total	Withdrawals	Monthly balance on which interest is calculated	Subscriber's emoluments drawn on duty or his leave salary, if he elects to subscribe during leave	Withdrawals
19-	19-						
April							
May							
June							
July							
August							
September							
October							
November							
December							
January							
February							
March							
March (Final)							
March (Supplementary)							

TOTAL

Balance from 19 .. 19-
Deposits and Refunds as above.
Interest for 19 .. 19

TOTAL

Deduct.—Withdrawal as above.
• Balance on 31st March 19 ..
Calculated by

Contribution by the Welfare
Fund on Rs. @
Balance from 19- .. 19
Interest for total .. 19

TOTAL

Deduct.—Withdrawal as above
Balance on 31st March 19 ..
Checked by

THE MINES ACT, 1952¹

ACT XXXV OF 1952

[15th March, 1952]

An Act to amend and consolidate the law relating to the regulation of labour and safety in mines.

Be it enacted by Parliament as follows:—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called THE MINES ACT, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date² or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States but not later than 31st December, 1953.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "adolescent" means a person who has completed his fifteenth year but has not completed his eighteenth year;

(b) "adult" means a person who has completed his eighteenth year;

(c) "agent", when used in relation to a mine, means any 'person', whether appointed as such or not, who acts as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act;

(d) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;

(e) "child" means a person who has not completed his fifteenth year;

(f) "day" means a period of twenty-four hours beginning at midnight;

(g) "district magistrate" means, in a presidency-town, the person appointed by the Central Government to perform the duties of a district magistrate under this Act in that town;

(h) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any

¹ For Statement of Objects and Reasons, see Gazette of India, d/- 17-12-49, Part V.

² 1st July, 1952, is appointed as the date on which the entire Act comes into force in the whole of India except the State of Jammu and Kashmir; vide Notification No. S.R.O. 967 d/- 27-5-52, published in Gazette of India, d/- 31-5-52, Pt. II-Sec. 3, p. 369.

machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;

(i) "Inspector" means an Inspector of Mines appointed under this Act, and includes a district magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;

(j) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes—

(i) every shaft in the course of being sunk;

(ii) every level and inclined plane in the course of being driven;

(iii) all shafts, levels, planes, machinery, works, tramways and sidings, whether above or below ground, in or adjacent to, and belonging to, the mine;

(iv) any workshop situated within the precincts of the mine and under the same management and used solely for purposes connected with that mine or a number of mines under the same management;

(v) any power station for supplying electricity solely for the purpose of working the mine, or any group of mines; and

(vi) unless exempted by the Central Government by notification in the Official Gazette, any premises or part thereof on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on;

(k) "office of the mine" means an office at the surface of the mine concerned;

(l) "owner", when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver; but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

(m) "prescribed" means prescribed by rules, regulations or bye-laws, as the case may be;

(n) "qualified medical practitioner" means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedule to the Indian Medical Council Act, 1933 (XXVII of 1933);

(o) "regulations", "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act;

(p) where work of the same kind is carried out by two or more sets of persons working during different periods of the day each of such sets is called a "relay";

(q) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days;

(r) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

3. *References to enactments not in force in Part B States.*—In the application of this Act to any Part B State, unless the context otherwise requires, references to any enactment in force in Part A States but not in force in that Part B State shall be construed as references to the corresponding enactment, if any, in force in that Part B State.

4. *References to time of day.*—In this Act, references to time of day are references to Indian standard time, being five and a half hours ahead of Greenwich mean time:

Provided that for any area in which Indian standard time is not ordinarily observed, the Central Government may make rules—

(a) specifying the area;

(b) defining the local mean time ordinarily observed therein; and

(c) permitting such time to be observed in all or any of the mines situated in the area.

CHAPTER II.

INSPECTOR AND CERTIFYING SURGEONS.

5. *Chief Inspector and Inspectors.*—(1) The Central Government may, by notification in the Official Gazette, appoint such a person as possesses the prescribed qualifications to be Chief Inspector of Mines for all the territories to which this Act extends and such persons as possess the prescribed qualifications to be Inspectors of Mines subordinate to the Chief Inspector.

(2) No person shall be appointed to be Chief Inspector or an Inspector, or having been appointed shall continue to hold such office, who is or becomes directly or indirectly interested in any mine or mining rights in India.

(3) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Central Government:

Provided that nothing in this sub-section shall be deemed to empower a district magistrate to exercise any of the powers conferred by section 22 or section 61.

(4) The Chief Inspector and all Inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (Act XLV of 1860).

6. *Functions of Inspectors.*—(1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which, Inspectors shall exercise their respective powers.

(2) The Inspectors shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

7. *Powers of Inspectors of Mines.*—(1) The Chief Inspector and any Inspector may—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(b) with such assistants, if any, as he thinks fit, enter, inspect and examine any mine or any part thereof at any time by day or night:

Provided that the power conferred by this clause shall not be exercised in such a manner as unreasonably to impede or obstruct the working of the mine;

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the health, safety and welfare of the persons employed in the mine, and take whether on the precincts of the mine or elsewhere, statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) exercise such other powers as may be prescribed by regulations made by the Central Government in this behalf:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(2) The Chief Inspector and any Inspector may, if he has reason to believe as a result of any inspection, examination or inquiry under this section, that an offence under this Act has been or is being committed, search any place and take possession of any register or other record appertaining to the mine, and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall, so far as may be applicable, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 98 of that Code.

8. *Powers of special officer to enter, measure, etc.*—Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Inspector or of an Inspector may, for the

purpose of surveying, levelling or measuring any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any time by day or night:

Provided that, where in the opinion of the Chief Inspector or of an Inspector an emergency exists, he may, by order in writing, authorise any such person to enter the mine for any of the aforesaid purposes without giving any such notice.

9. Facilities to be afforded to Inspectors.—Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

10. Secrecy of information obtained.—(1) All copies of, and extracts from, registers or other records appertaining to any mine and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 8 in the exercise of his duties thereunder, shall be regarded as confidential and shall not be disclosed to any person or authority unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the health, safety or welfare of any person employed in the mine or in any other mine adjacent thereto.

(2) Nothing in sub-section (1) shall apply to the disclosure of any such information (if so required) to—

(a) any court;

(b) a Mining Board, Committee, or Court of Inquiry constituted or appointed under section 12, section 13 or section 24 as the case may be;

(c) an official superior or the owner, agent or manager of the mine concerned;

(d) a Commissioner for workmen's compensation appointed under the Workmen's Compensation Act, 1923 (VIII of 1923);

(e) the Director, Indian Bureau of Mines.

(3) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1) discloses, contrary to the provisions of this section, any such information as aforesaid without the consent of the Central Government, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) No court shall proceed to the trial of any offence under this section except with the previous sanction of the Central Government.

11. Certifying surgeons.—(1) The Central Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such mine or class or description of mines as it may assign to them respectively.

(2) Subject to such conditions as the Central Government may think fit to impose, a certifying surgeon may, with the approval of the Central Government, authorise any qualified medical practitioner to exercise all or any of his powers under this Act for such period as the certifying surgeon may specify, and references to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of, a certifying surgeon, or, having been so appointed or authorised, continue to exercise such powers, who is or becomes the owner, agent or manager of a mine, or is or becomes directly or indirectly interested therein, or in any process or business carried on therein or in any patent or machinery connected therewith, or is otherwise in the employment of the mine.

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

(a) the examination and certification of adolescents under this Act;

(b) the examination of persons engaged in a mine in such dangerous occupations or processes as may be prescribed;

(c) the exercise of such medical supervision as may be prescribed for any mine or class or description of mines where—

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in the mine;

(ii) adolescents are or are to be employed in any work which is likely to cause injury to their health.

CHAPTER III.

MINING BOARDS AND COMMITTEES.

12. Mining Boards.—(1) The Central Government may constitute for any part of the territories to which this Act extends, or for any group or class of mines, a Mining Board consisting of—

(a) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Central Government to act as chairman;

(b) the Chief Inspector or an Inspector nominated by the Central Government;

(c) a person, not being the Chief Inspector or an Inspector, nominated by the Central Government;

(d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed;

(e) two persons to represent the interest of miners, who shall be nominated in accordance with the following provisions, namely,—

(i) if there are one or more registered trade unions having in the aggregate as members not less than one-quarter of the miners, the said

persons shall be nominated by such trade union or trade unions in such manner as may be prescribed;

(ii) if sub-clause (i) is not applicable and there are one or more registered trade unions having in the aggregate as members not less than one thousand miners, one of the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed and the other by the Central Government;

(iii) if neither sub-clause (i) nor sub-clause (ii) is applicable, the said persons shall be nominated by the Central Government.

Explanation.—In this clause 'miner' means a person employed, otherwise than in a position of supervision or management, in any of the mines for which the Mining Board is constituted.

(2) The chairman shall appoint a person to act as secretary to the Board.

(3) The Central Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

13. Committees.—(1) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

(a) a chairman nominated by the Central Government or by such officer or authority as the Central Government may authorise in this behalf;

(b) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee; and

(c) two persons to represent the interests of the persons employed in the mine of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Central Government in consultation with such organisations of miners employed in the mine as may be recognised for the purpose by that Government.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub-section (1), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Central Government.

(5) On receiving such report the Central Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Central Government may proceed to

review such decision and to pass such orders in the matter as it may think fit:

Provided that if an objection is lodged by the Chief Inspector, notice of the same shall be given to the owner, agent or manager of the mine before any orders are passed thereon by the Central Government.

(6) The Central Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of expenses of the inquiry including such remuneration.

14. Powers of Mining Boards.—(1) Any Mining Board constituted under section 12 and any Committee constituted under section 13 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(2) Every Mining Board constituted under section 12 and every Committee appointed under section 13 shall have the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (Act XLV of 1860).

15. Recovery of expenses.—The Central Government may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 12 or by a Committee appointed under section 13 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any movable property within the limits of the Magistrate's jurisdiction belonging to such owner or agent:

Provided that the owner or his agent has not paid the amount within six weeks from the date of receiving the notice from the Central Government or the Chief Inspector of Mines.

CHAPTER IV.

MINING OPERATIONS AND MANAGEMENT OF MINES.

16. Notice to be given of mining operations.—(1) The owner, agent or manager of a mine shall, before the commencement of any mining operation, give to the Chief Inspector, the Director, Indian Bureau of Mines and the district magistrate of the district in which the mine is situate, notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

(2) Any notice given under sub-section (1) shall be so given as to reach the persons concerned at least one month before the commencement of any mining operation.

17. Managers.—Save as may be otherwise prescribed every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

18. Duties and responsibilities of owners, agents and managers.—
(1) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder.

(2) In the event of any contravention of any such provisions by any person whosoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention:

Provided that the owner or agent shall not be so deemed if he proves—

(a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and

(b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and

(c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER V.

PROVISIONS AS TO HEALTH AND SAFETY.

19. Drinking water.—(1) In every mine, both above and below ground, effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all persons employed therein a sufficient supply of cool and wholesome drinking water.

(2) All such points shall be legibly marked 'DRINKING WATER' in a language understood by a majority of the persons employed in the mine and no such point shall be situated within twenty feet of any washing place, urinal or latrine, unless a shorter distance is approved in writing by the Chief Inspector.

(3) In respect of all mines or any class or description of mines, the Central Government may make rules for securing compliance with the provisions of sub-sections (1) and (2) and for the examination by prescribed authorities of the supply and distribution of drinking water.

20. Conservancy.—(1) There shall be provided, separately for males and females in every mine, a sufficient number of latrines and

urinals of prescribed types so situated as to be convenient and accessible to persons employed in the mine at all times.

(2) All latrines and urinals provided under sub-section (1) shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

(3) The Central Government may specify the number of latrines and urinals to be provided in any mine, in proportion to the number of males and females employed in the mine and provide for such other matters in respect of sanitation in mines (including the obligations in this regard of persons employed in the mine) as it may consider necessary in the interests of the health of the persons so employed.

21. Medical appliances.—(1) In every mine, both above and below ground, there shall be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards shall not be less than one for every one hundred and fifty persons employed in the mine.

(2) Nothing except the prescribed contents shall be kept in the boxes and cupboards referred to in sub-section (1) and all such boxes and cupboards, shall be kept in the charge of any person employed in the mine who is trained in such first aid treatment as may be prescribed and who shall always be available during the working hours of the mine.

(3) In every mine wherein more than five hundred persons are employed, there shall be provided and maintained such ambulances and stretchers as may be prescribed and an ambulance room of the prescribed size containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed.

22. Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.—

(1) If in respect of any matter for which no express provision is made in this Act, or in the regulations, rules or bye-laws or in any orders made thereunder it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine or part thereof, or the matter, thing or practice to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Chief Inspector or the Inspector may, by order in writing addressed to the owner, agent or manager of a mine, prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature

collapse, of any part of the workings or otherwise endanger the mine, or if, in his opinion, adequate provision against the outbreak of fire has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by a fire, and the provisions of sub-sections (4), (5), (6) and (7) shall apply to an order made under this sub-section as they apply to an order made under sub-section (3).

(3) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit until the danger is removed, the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(4) Where an order has been made under sub-section (3) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(5) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (3), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (4) shall forthwith report the same to the Central Government.

(6) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under sub-section (3), or sub-section (4), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing stating the grounds thereof, to the Central Government which shall refer the same to a Committee.

(7) Every requisition made under sub-section (1), or order made under sub-section (3), or sub-section (4) to which objection is made under sub-section (6), shall be complied with pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1), pending its decision on the objection.

(8) Nothing in this section shall affect the powers of a magistrate under section 144 of the Code of Criminal Procedure, 1898 (Act V of 1898).

23. Notice to be given of accidents.—(1) Where there occurs in or about a mine—

(a) an accident causing loss of life or serious bodily injury, or

(b) an accidental explosion, ignition, spontaneous heating, outbreak of fire or irruption of water, or

(c) an accidental breakage of ropes, chains or other gear by which men are lowered or raised, or

(d) an accidental overwinding of cages, while men are being lowered or raised, or

(e) a premature collapse of any part of the workings, the owner, agent or manager of the mine shall give notice of the occurrence to such authority, in such form and within such time as may be prescribed, and he shall simultaneously post one copy of the notice on a special notice board in the prescribed manner at a place where it may be inspected by trade union officials and shall ensure that the notice is kept on the board for not less than two months from the date of such posting.

(2) Where a notice given under sub-section (1) relates to an accident causing loss of life, the authority shall make an inquiry into the occurrence within two months of the receipt of the notice and, if the authority is not the Inspector, he shall cause the Inspector to make an inquiry within the said period.

(3) The Central Government may, by notification in the Official Gazette, direct that accidents other than those specified in sub-section (1), which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty-eight hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (1).

(4) A copy of the entries in the register referred to in sub-section (3) shall be sent by the owner, agent, or manager of the mine, within fourteen days after the 30th day of June and the 31st December, in each year to the Chief Inspector.

24. Power of Government to appoint Court of inquiry in cases of accidents.—(1) When any accident occurs in or about a mine causing loss of life or serious bodily injury or when an accidental explosion, ignition, spontaneous heating, outbreak of fire, irruption of water, breakage of ropes, chains or other gear by which men are lowered or raised, or when an accidental overwinding of cages occurs in or about a mine while men are being lowered or raised the Central Government may, if it is of opinion that a formal inquiry into the causes of and circumstances attending the accident ought to be held, appoint a competent person to hold such inquiry and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(2) The person appointed to hold any such inquiry shall have all the powers of a civil court under the Code of Civil Procedure 1908 (Act V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (Act XLV of 1860).

(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Central Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

25. Notice of certain diseases.—(1) Where any person employed in a mine contracts any disease notified¹ by the Central Government in the Official Gazette as a disease connected with mining operations, the owner, agent or manager of the mine, as the case may be, shall send notice thereof to the Chief Inspector and to such other authorities, in such form and within such time as may be prescribed.

(2) If any medical practitioner attends on a person who is or has been employed in a mine and who is or is believed by the medical practitioner to be suffering from any disease notified under sub-section (1), the medical practitioner shall without delay send a report in writing to the Chief Inspector stating—

(a) the name and address of the patient,

(b) the disease from which the patient is or is believed to be suffering, and

(c) the name and address of the mine in which the patient is or was last employed.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector by the certificate of a certifying surgeon or otherwise that the person is suffering from a disease notified under sub-section (1), the Chief Inspector shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land revenue from the owner, agent or manager of the mine in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to fifty rupees.

26. Power to direct investigation of causes of disease.—(1) The Central Government may, if it considers it expedient to do so, appoint a competent person to inquire into and report to it, on any case where a disease notified under sub-section (1) of section 25 has been or is suspected to have been contracted in a mine, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The provisions of sub-sections (2) and (3) of section 24 shall apply to an inquiry under this section in the same manner as they apply to any inquiry under that section.

¹The following diseases have been notified by the Central Government under Notification No. S.R.O. 1306, d/- 21.7.52 as diseases connected with mining operations, namely:—(1) Silicosis and (2) Pneumoconiosis; *vide* Gazette of India, d/- 14.7.52, Pt. II-Sec. 3, p. 1153.

27. Publication of reports.—The Central Government may cause any report submitted by a Committee under section 13, or any report or extracts from any report submitted to it under section 26, and shall cause every report submitted by a Court of inquiry under section 24 to be published at such time and in such manner as it may think fit.

CHAPTER VI.

HOURS AND LIMITATION OF EMPLOYMENT.

28. Weekly days of rest.—No person shall be allowed to work in a mine on more than six days in any one week.

29. Compensatory days of rest.—(1) Where in pursuance of action under section 38 or as a result of exempting any mine or the persons employed therein from the provisions of section 28, any person employed therein is deprived of any of the weekly days of rest for which provision is made, in section 28, he shall be allowed, within the month in which such days of rest were due to him or within the two months immediately following that month, compensatory days of rest equal in number to the days of rest of which he has been deprived.

(2) The Central Government may prescribe the manner in which the days of rest for which provision is made in sub-section (1) shall be allowed.

30. Hours of work above ground.—(1) No adult employed above ground in a mine shall be required or allowed to work for more than forty-eight hours in any week or for more than nine hours in any day.

(2) The periods of work of any such adult shall be so arranged that, along with his interval for rest, they shall not in any day spread over more than twelve hours, and that he shall not work for more than five hours continuously before he has had an interval for rest of at least half an hour:

Provided that the Chief Inspector may, for reasons to be recorded, increase the period of spread over to fourteen hours in any day.

(3) No person belonging to two or more relays shall be allowed to do work of the same kind above ground at the same moment:

Provided that, for the purposes of this sub-section, persons shall not be deemed to belong to separate relays by reason only of the fact that they receive their intervals for rest at different times.

31. Hours of work below ground.—(1) No adult employed below ground in a mine, except a pump-minder, an onsetter or attendant of continuously operated machinery, shall be allowed to work for more than forty-eight hours in any week or for more than eight hours in any day.

(2) No adult excepted under sub-section (1) shall be allowed to work for more than fifty-four hours in any week or for more than nine hours in any day.

(3) Work of the same kind shall not be carried on below ground in any mine for a period spreading over more than eight hours in the case of adults referred to in sub-section (1), and nine hours in the case of adults referred to in sub-section (2), in any day except by a system of relays so arranged that the periods of work for each relay are not spread over more than the hours stipulated in sub-section (1) or sub-section (2), as the case may be.

(4) No adult employed in a mine shall be allowed to be in any part of a mine below ground, except during the periods of work shown in respect of him in the register kept under sub-section (1) of section 48.

32. Special provision for night relays.—Where a worker works in a relay whose period of work extends over midnight the ensuing day for him shall be deemed to be the period of twenty-four hours beginning at the end of the period of work fixed for the relay, and the hours he has worked after midnight shall be counted towards the previous day.

33. Extra wages for overtime.—(1) Where a person employed in a mine works therein for more than forty-eight hours **[in any week]* whether above or below ground, he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages if he works below ground and at one and a half times that rate if he works above ground.

(2) Where any person employed in a mine is paid on piece-rate basis, the Central Government shall in consultation with the employer concerned and the representatives of the persons employed in the mine, fix for the purposes of this section time rates which shall, as nearly as possible, be equivalent to the average rate of earnings of the persons so employed, and the rates so fixed shall be deemed to be the ordinary rates of wages of such persons.

(3) For the purposes of this section "ordinary rate of wages" means the basic wages *plus* such allowances including the cash equivalent of the advantage accruing through the sale on a concessional basis of foodgrains and other articles as persons employed in a mine may, for the time being, be entitled to, but does not include a bonus.

(4) The Central Government may prescribe the registers to be maintained in a mine for the purpose of securing compliance with the provisions of this section.

34. Prohibition of employment of certain persons.—No person shall be allowed to work in a mine who has already been working in any other mine within the preceding twelve hours.

35. Limitation of periods of overtime work.—Save in respect of cases falling within clause (a) of section 39, no person employed in a mine shall be allowed to work for more than ten hours in any day, inclusive of overtime, nor shall the total number of hours of his overtime work exceed fifty for one quarter:

*Inserted by the Repealing and Amending Act 42 of 1955, Sec. 4 and Third Schedule.

Provided that—

(i) subject to the previous approval of the Chief Inspector, the daily maximum hours specified in sections 30 and 31 may be exceeded in order to facilitate a change of shifts;

(ii) an adult, engaged in work which for technical reasons must be continuous throughout the day may be employed for fifty-six hours a week.

Explanation.—In this section 'quarter' means a period of three consecutive months beginning with the 1st day of January, April, July or October.

36. Notices regarding hours of work.—(1) the manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of relays, the time of the commencement and of the end of work for each relay.

(2) In the case of a mine at which mining operations commence after the commencement of this Act, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.

(3) The notice referred to in sub-section (1) shall also state the time of the commencement and of the intervals for rest for persons employed above ground and a copy thereof shall be sent to the Chief Inspector, if he so requires.

(4) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any relay or in the rest intervals fixed for persons employed above ground, an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change.

(5) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (1).

37. Supervising staff.—Nothing in section 28, section 30, section 31, section 34 or ²[sub-section (5) of section 36], shall apply to persons who may by rules be defined to be persons, holding positions of supervision or management or employed in a confidential capacity.

38. Exemption from provisions regarding employment.—(1) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, whether actual or apprehended, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment of the mine as the result of breakdown of such machinery, plant or equipment, the manager may, subject to the provisions of section 22 and in accordance with the rules under section 39, permit persons to be employed in contravention of

² Substituted for "sub-section (4) of section 36" by the Repealing and Amending Act 42 of 1953, Section 4 and Third Schedule.

section 28, section 30, section 31, section 34 or ³[sub-section (5) of section 36], on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that, in case of any urgent work to be done to machinery, plant or equipment under this section, the manager may take the action permitted by this section, although the production of coal would thereby be incidentally affected, but any action so taken shall not exceed the limits necessary for the purpose of avoiding serious interference with the ordinary working of the mine.

(2) Every case in which action has been taken by the manager under sub-section (1), shall be recorded together with the circumstances, relating thereto and a report thereof shall also be made to the Chief Inspector or the Inspector.

39. Power to make exempting rules.—The Central Government may make rules providing for the exemption, to such extent and subject to such conditions as may be specified, from the provisions of sections 28, 30, 31, 34 or ³[sub-section (5) of section 36].—

(a) of all or any of the persons employed in a mine, where an emergency involving serious risk to the safety of the mine or of the persons employed therein is apprehended;

(b) of all or any of the persons so employed, in case of an accident, actual or apprehended;

(c) of all or any of the persons engaged in urgent repairs; and

(d) of all or any of the persons employed in any work which for technical reasons must be carried on continuously throughout the day.

40. Employment of adolescents.—(1) No adolescent shall be allowed to work in any part of a mine which is below ground unless—

(a) a medical certificate in the prescribed form granted to the adolescent by a certifying surgeon certifying that he is fit for work as an adult is in the custody of the manager of the mine;

(b) the adolescent carries, while at work, a token giving a reference to such certificate;

(c) the adolescent has an interval for rest of at least half an hour after every four and a half hours of continuous work on any day.

(2) Notwithstanding anything contained in this Act, no adolescent who has been granted a certificate under sub-section (1) shall be employed in any mine except between the hours of 6 A.M. and 6 P.M.:

Provided that the Central Government may, by notification in the Official Gazette, vary the hours of employment of such adolescent in respect of any mine or class of mines so however that no employment of any such adolescent between the hours of 10 P.M. and 5 A.M. is permitted thereby.

* Substituted for "sub-section (4) of section 36" by the Repealing and Amending Act 42 of 1955, section 4 and Third Schedule.

41. Certificate of fitness.—(1) A certificate of fitness granted or renewed for the purposes of section 40—

(a) shall be valid only for a period of twelve months from the date thereof;

(b) may be subject to specified conditions in regard to employment generally or the nature of the work in which the adolescent may be employed.

(2) A certifying surgeon shall revoke a certificate granted or renewed under section 40, if in his opinion the holder of it is no longer fit for work in the capacity stated therein in a mine.

(3) Where a certifying surgeon refuses to grant or renew a certificate or revokes a certificate, he shall, if so required by the person concerned, state his reasons in writing for so doing.

(4) Where a certificate under section 40, with reference to any adolescent is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (1), an adolescent shall not be required or allowed to work in any mine except in accordance with those conditions.

(5) The adolescent or his parents shall not be liable to pay any part of the expenses of any medical examination under section 40 in all cases where the application for a medical certificate is accompanied by a document signed by the manager of a mine stating that the adolescent to be examined will be employed in the mine if certified to be fit for work therein or the application is made by the manager of the mine in which the adolescent desires to be employed.

42. Effect of certificate of fitness granted to adolescents.—An adolescent, who has been granted a certificate of fitness to work in a mine as an adult under section 40, and who while actually employed in a mine carries a token giving a reference to such certificate, shall be deemed to be an adult for the purposes of this Act.

43. Power to require medical examination.—Where an Inspector is of opinion that any person employed in a mine without a certificate of fitness is an adolescent or that an adolescent working in a mine with a certificate of fitness is no longer fit to work in the capacity stated in the certificate, he may serve on the manager of the mine a notice requiring that such person or adolescent, as the case may be, shall be examined by a certifying surgeon and such person or adolescent shall not, if the Inspector so directs, be employed or permitted to work in any mine until he has been so examined and has been granted a certificate of fitness, or a fresh certificate of fitness as the case may be, under section 40, or has been certified by the certifying surgeon examining him not to be an adolescent.

44. Working hours for adolescents not certified to be fit for work as adults.—(1) No adolescent who has not been granted a medical certificate certifying that he is fit for work as an adult shall be employed or permitted to be employed above ground or in any workshop or power station in a mine or in any open cast workings in a mine—

(a) for more than four and a half hours in any day; or

(b) between the hours of 6 P.M. and 6 A.M.

(2) The period of work of all such adolescents employed in a mine shall be limited to two shifts which shall not overlap or spread over more than five hours each, and each such adolescent shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 28 shall apply to such adolescents and notwithstanding anything contained in sub-section (1) of section 38 or in section 39 no exemption from the provisions of section 28 shall be granted in respect of any adolescent.

45. *Employment of children.*—(1) No child shall be employed in any mine, nor shall any child be allowed to be present in any part of a mine which is below ground or in any open excavation in which any mining operation is being carried on.

(2) After such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, no child shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on.

46. *Employment of women.*—No woman shall be employed at any time of the day or night in any part of a mine which is below the adjacent ground level, and no woman shall be employed in any mine above ground except between the hours of 6 A.M. and 7 P.M.:

Provided that the Central Government may, by notification in the Official Gazette, vary the hours of employment of women, above ground in respect of any mine or class or description of mine, so however that no employment of any woman between the hours of 10 P.M. and 5 A.M. is permitted thereby.

47. *Disputes as to age.*—(1) If any question arises between the Chief Inspector or Inspector and the manager of any mine as to whether any person is a child or an adolescent the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

48. *Registers of persons employed.*—(1) For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine showing in respect of each such person—

(a) the name of the employee, with the name of his father or, of her husband, as the case may be, and such other particulars as may be necessary for purposes of identification;

(b) the age and sex of the employee;

(c) the nature of his employment whether above ground, below ground or open cast workings, and the date of commencement thereof;

(d) the periods of work fixed for him;

(e) the intervals for rest, if any, and the days of rest to which he is entitled;

(f) in the case of an adolescent, reference to the certificate of fitness granted under section 40;

(g) where work is carried on by a system of relays, the relay to which he belongs and the hours of relay, that is to say, the period of work fixed for him;

(h) such other particulars as may be prescribed;

and the relevant entries shall be authenticated by the signature or the thumb impression of the person concerned.

(2) The entries in the register prescribed by sub-section (1) shall be such that workers working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(3) No person shall be employed in a mine until the particulars required by sub-section (1) have been recorded in the register in respect of such person and no person shall be employed except during the periods of work shown in respect of him in the register.

(4) For every mine, other than a mine which is exempted by the Central Government by general or special order, there shall be kept in the prescribed form and place separate registers showing in respect of each person employed in the mine, (a) below ground, (b) in open cast workings and (c) above ground—

(a) the name of the employee;

(b) the nature of his employment;

(c) where work is carried on by a system of relays, the relay to which he belongs and the hours of relay, that is to say, the period of work fixed for him.

(5) The register of persons employed below ground referred to in sub-section (4) shall show at any moment the name of every person who is then present below ground in the mine.

CHAPTER VII.

LEAVE WITH WAGES.

49. *Leave defined.*—For the purposes of this Chapter leave shall not, except as provided in section 51, include weekly days of rest or holidays for festivals or other similar occasions.

50. *Application of Chapter.*—The provisions of this Chapter shall not operate to the prejudice of any rights to which a person employed in

a mine may be entitled under any other law for the time being in force or under the terms of any award, agreement or contract of service, and, where any such award, agreement or contract of service provides for a longer leave with wages than is provided in this Chapter, such person shall be entitled to such longer leave only.

51. Annual leave with wages.—(1) Every person employed in a mine who has completed a period of twelve months' continuous service therein shall be allowed during the subsequent period of twelve months, leave with full pay or wages based on the average pay or wages for the twelve months immediately preceding the leave, as provided in section 52, and such leave shall be calculated at the rate of—

(i) if he is an employee paid by the month, fourteen days for such period of twelve months;

(ii) if he is an employee paid by the week, or a loader, or other person employed below ground on a piece-rate basis, seven days for such period of twelve months.

(2) The twelve months' continuous service referred to in sub-section (1) shall be deemed to have been completed,—

(a) in the case of a loader, or other person employed below ground on a piece-rate basis, if he has during the said period of twelve months put in not less than one hundred and ninety attendances at the mine;

(b) in the case of a person employed above ground on a piece-rate basis or in the case of any other person who is paid by the month, week or day, if he has during the said period of twelve months put in not less than two hundred and sixty-five attendances at the mine.

Explanation.—In either of the above cases the period of leave shall be inclusive of the weekly days of rest and any holiday (if granted) which may occur during such period.

(3) If any person employed in a mine who is paid by the month does not in any one such period of twelve months take the whole of the leave allowed to him under sub-section (1), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months:

Provided that the total number of days of leave which may be accumulated by any such person shall not exceed twenty-eight days in all.

(4) Any such person may, during any such period of twelve months, apply in writing to the manager of the mine, not less than fifteen full working days before the day on which he wishes his leave to begin, for all leave or any portion thereof allowable to him during that period under sub-sections (1) and (3).

(5) No application for leave made in accordance with the provisions of this section shall ordinarily be refused, unless the authority empowered to grant the leave is of the opinion that owing to the exigencies of the situation the leave should be refused.

(6) If any person entitled to leave under this section is discharged from the mine before he has taken or has been allowed to take the entire

leave to which he is entitled, the owner, agent or manager of the mine shall pay to him the pay or wages payable under section 51 in respect of the leave not taken and such payment shall be made before the expiry of the second working day after the day on which his employment is terminated.

Explanation 1.—For the purposes of this section a person shall be deemed to have completed a period of continuous service in a mine, notwithstanding any interruption of service during that period brought about by—

- (i) sickness, accident or authorised leave not exceeding in the aggregate one-sixth of that period, or
- (ii) a strike, which is not an illegal strike, or
- (iii) a lock-out, or
- (iv) one or more periods of involuntary unemployment not exceeding in the aggregate one-twelfth of the period, or
- (v) leave admissible or granted under any other law.

Explanation 2.—Authorised leave shall include any casual absence due to any reasonable cause:

Provided that the person concerned, within a week from the commencement of the absence, gives the reasons for such absence in writing to the owner, agent or manager of the mine, and any such period of authorised leave may include periods of unauthorised leave not exceeding in the aggregate one-thirty-sixth of the period of continuous service, but not weekly days of rest allowed under section 28 which occurs at the beginning or end of an interruption brought about by the leave.

Explanation 3.—"Illegal strike" means a strike which is an illegal strike within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947) or of any other law for the time being in force.

52. Wages during leave period.—(1) For the leave allowed to a loader, or other person employed below ground on a piece-rate basis, he shall be paid at a rate equal to the daily average of his earnings for the month of December prior to his leave:

Provided that if no such average earnings are available, then the average shall be computed on the basis of the daily average earnings of all persons similarly employed for the same month, and for the purpose of such computation the cash equivalent of the advantage accruing to such persons through the free issue of food grains and any compensation in cash drawn by them during the said month shall be taken into account.

(2) For the leave allowed to a person employed in a mine who is paid by the month or week he shall be paid at a rate equal to his normal daily wages during the week preceding his leave, and in computing such wages the cash equivalent of the advantage accruing to him through the free issue of food grains and any compensation in cash drawn by him shall also be taken into account.

53. *Payment in advance in certain cases.*—Any person employed in a mine who has been allowed leave for not less than ten days in the case of a person paid by the month, and five days, either in the case of a person paid by the week or in the case of a loader, or other person employed below ground on a piece-rate basis, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

54. *Power of Inspector to act for an employee.*—Any Inspector may institute proceedings on behalf of any person employed in a mine to recover any sum required to be paid by an employer under this Chapter, which has not been paid by the employer.

55. *Power to make rules.*—The Central Government may, by rules, prescribe the maintenance by owners, agents or managers of mines of registers showing such particulars as may be required for the purposes of this Chapter, and requiring such registers to be made available for examination by Inspectors.

56. *Power to exempt mines.*—Where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in this Chapter, it may, by order in writing and subject to such conditions as may be specified therein, exempt the mine from all or any of the provisions of this Chapter.

CHAPTER VIII.

REGULATIONS, RULES AND BYE-LAWS.

57. *Power of Central Government to make regulations.*—The Central Government may, by notification in the Official Gazette, make regulations^a consistent with this Act for all or any of the following purposes, namely:—

(a) for prescribing the qualifications required for appointment as Chief Inspector or Inspector;

(b) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;

(c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them, and for prescribing the qualifications of managers of mines and of persons acting under them;

(d) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;

^aNo regulations under this section have so far been made by the Central Government. For regulations made under the former Act (Act IV of 1923) since repealed by this Act, see the Indian Coal Mines Regulations, 1926; vide G.R.O., Sup. Vol. II, pp. 1000-1042.

(e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;

(f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

(g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications;

(h) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency;

(i) for regulating, subject to the provisions of the Indian Explosives Act, 1884 (IV of 1884), and of any rules made thereunder, the storage, conveyance and use of explosives;

(j) for prohibiting, restricting or regulating the employment of women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such women and for limiting the weight of any single load that may be carried by a woman;

(k) for providing for the safety of the persons employed in a mine, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;

(l) for prohibiting the employment in a mine either as manager or in any other specified capacity of any person except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine;

(m) for providing for the safety of the roads and working places in mines, including the siting, maintenance and extraction of pillars and the maintenance of sufficient barriers between mine and mine;

(n) for the inspection of workings, and sealed off fire-areas in a mine, and for the restriction of workings under rivers, tanks, water-courses, public roads and buildings and for requiring due precaution to be taken against the onrush of water into, outbreak of fire in or premature collapse of, any workings;

(o) for providing for the ventilation of mines and the action to be taken in respect of dust, fire, and inflammable and noxious gases, including precautions against spontaneous combustion, underground fire and coal dust;

(p) for providing for the care, and the regulation of the use, of all machinery and plant of all electrical apparatus used for signalling or for other purposes of communication;

(q) for providing for the safety of persons present on haulage roads and for restricting the use of certain classes of locomotives underground;

(r) for providing for proper lighting of mines and regulating the use of safety lamps therein and for the search of persons entering a mine in which safety lamps are in use;

(s) for providing against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in the premature collapse of or to result in or to aggravate the collapse of or irruptions of water or ignitions in mines;

(t) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns, and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;

(u) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector;

(v) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;

(w) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 16;

(x) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890 (IX of 1890), or of any public work, or classes of public works which the Central Government may, by general or special order, specify in this behalf;

(y) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1890 (IX of 1890);

(z) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet, whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public; and

(zz) any other matter which has to be or may be prescribed.

58. *Power of Central Government to make rules.*—The Central Government may, by notification in the Official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:—

(a) for providing for the appointment of Chairman and members of Mining Boards, and for regulating the procedure of such Boards;

¹For the Mines Rules, 1955, see Notification No. S.R.O. 1421, d/- 2.7.55, published in Gazette of India, d/- 2.7.55, Pt. II-Sec. 3, p. 1173; see also p. 703 at seq. part.

(b) for prescribing the form of the register referred to in subsection (3) of section 23;

(c) for providing for the appointment of Courts of inquiry under section 24, for regulating the procedure and powers of such Courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such Courts from the manager, owner or agent of the mine concerned;

²(d) for requiring the maintenance in mines wherein any women are employed or were employed on any day of the preceding twelve months of suitable rooms to be reserved for the use of children, under the age of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women employed in the mine, the number and standards of such rooms, and the nature and extent of the amenities to be provided and the supervision to be exercised therein;

³(e) for requiring the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the number and standards of such places and rooms;

(f) for prescribing the standard of sanitation to be maintained and the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work;

(g) for prohibiting the possession or consumption of intoxicating drinks or drugs in a mine and the entry or presence therein of any person in a drunken state;

(h) for prescribing the forms of notices required under section 36, and for requiring such notices to be posted also in specified languages;

(i) for defining the persons who shall, for the purpose of section 37, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;

(j) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to have completed their fifteenth year, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;

(k) for prescribing the form of the certificate of fitness required by section 40, the conditions subject to which and the circumstances in which they may be granted and the circumstances in which they may be revoked;

(l) for prescribing the form of registers required by section 48;

²For the Coal Mines Cribbe Rule, 1946 (framed under Act IV of 1923), see Notification No. L.M.W. 5(7)/46, d/- 23.7.46; see also *post*.

³For the Coal Mines Pithead Bath Rules, 1946 (framed under Act IV of 1923), see Notification No. L.M.W. 5(5)/46, d/- 23.7.46; see also *post*.

²(m) for prescribing abstracts of this Act and of the regulations and rules and the language in which the abstracts and bye-laws shall be posted as required by sections 61 and 62;

(n) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times, within which they are to be submitted;

(o) for requiring the provision and maintenance in mines, wherein more than one hundred and fifty persons are ordinarily employed, of adequate and suitable shelters for taking food with provision for drinking water;

(p) for requiring the provision and maintenance in any mine specified in this behalf by the Chief Inspector or Inspector, wherein more than two hundred and fifty persons are ordinarily employed, of a canteen or canteens for the use of such persons;

(q) for requiring the employment in every mine wherein five hundred or more persons are ordinarily employed, of such number of welfare officers as may be specified and for prescribing the qualifications and the terms and conditions of, and the duties to be performed by, such welfare officers;

²(r) for requiring the establishment of central rescue stations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established;

²(s) for providing for the management of central rescue stations, and regulating the constitution, powers and functions of, and the conduct of business by, the authorities (which shall include representatives of the owners and managers of, and of the miners employed in, the mines or groups of mines concerned) charged with such management;

²(t) for prescribing the position, equipment, control, maintenance and functions of central rescue stations;

²(u) for providing for the levy and collection of a duty of excise (at a rate not exceeding six pies per ton) on coke and coal produced in and despatched from mines specified under clause (r) in any group or included under clause (r) in any specified area, the utilisation of the proceeds thereof for the creation of a central rescue station fund for such group or area and the administration of such funds;

²(v) for providing for the formation, training, composition and duties of rescue brigades; and generally for the conduct of rescue work in mines; and

¹For the Mines (Posting up of Abstracts) Rules, 1955, see Notification No. S.R.O. 2403, d/- 12.7.54, published in Gazette of India, d/- 17.7.54, Pt. II-Sec. 3, p. 1797; see also *post*.

²For the Coal Mines Rescue Rules, 1939 (framed under Act IV of 1925), see Labour Notification No. M-955, d/- 9.2.39; see also *post*.

(w) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

59. Prior publication of regulations and rules.—(1) The power to make regulations and rules conferred by sections 57 and 58 is subject to the condition of the regulations and rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(3) Before the draft of any regulation is published under this section it shall be referred to every Mining Board which is, in the opinion of the Central Government, concerned with the subject dealt with by the regulation, and the regulation shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(4) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted in that part of the territories to which this Act extends which is affected by the rule, and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(5) Regulations and rules shall be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Act.

(6) The provisions of sub-sections (1), (2) and (4) shall not apply to the first occasion on which rules referred to in clause (4) or clause (6) of section 58 are made.

(7) The regulations and rules made under sections 57 and 58 shall be laid before Parliament, as soon as may be, after they are made.

60. Power to make regulations without previous publication.—Notwithstanding anything contained in sub-sections (1), (2) and (3) of section 59, regulations under clause (i) and clauses (k) to (s) excluding clause (l) of section 57 may be made without previous publication and without previous reference to Mining Boards, if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference:

Provided that any regulation so made shall not remain in force for more than two years from the making thereof.

61. Bye-laws.—(1) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for

the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such owner, agent or manager—

(a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

(b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient, the Chief Inspector or Inspector may—

(i) propose a draft of such bye-laws as appear to him to be sufficient, or

(ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient and shall send such draft bye-laws or draft amendments to the owner, agent or manager as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (2), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board or where there is no Mining Board, to such officer or authority as the Central Government may, by general or special order, appoint in this behalf.

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Central Government for approval.

(b) The Central Government may make such modification of the draft bye-laws as it thinks fit.

(c) Before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Central Government.

(d) Every objection shall be in writing, and shall state—

(i) the specific grounds of objections, and

(ii) the omissions, additions or modifications asked for.

(e) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Central Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such other language or languages as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Central Government may, by order in writing rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

62. *Posting up of abstracts from Act, regulations, etc.*—There shall be kept posted up at or near every mine in English and in such other language or languages as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER IX.

PENALTIES AND PROCEDURE.

63. *Obstruction.*—(1) Whoever obstructs the Chief Inspector, an Inspector, or any person authorised under section 8 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

64. *Falsification of records, etc.*—Whoever—

(a) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(b) knowingly uses as true any such counterfeit or false certificate, or

(c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

(d) falsifies any plan or register or record the maintenance of which is required by or under this Act, or

(c) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

65. Use of false certificates of fitness.—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 40 a certificate granted to another person under that section, or, having been granted a certificate of fitness to himself under that section, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees or with both.

66. Omission to furnish plans, etc.—Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

67. Contravention of provisions regarding employment of labour.—Whoever, save as permitted by section 38, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which the contravention is so continued.

68. Penalty for double employment of young persons.—If a child or an adolescent is employed in a mine on any day on which he has already been employed in another mine, his parent or guardian or the person who has the custody of such child or adolescent or who obtains any direct benefit from his wages shall be punishable with fine which may extend to fifty rupees, unless it appears to the Court that the child or adolescent was so employed without the consent or connivance of such parent, guardian or person.

69. Failure to appoint manager.—Whoever in contravention of the provisions of section 17, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

70. Notice of accidents.—(1) Whoever in contravention of the provision of sub-section (1) of section 23 fails to give notice of any accidental occurrence or to post a copy of the notice on the special notice board referred to in that sub-section and to keep it there for the period specified shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever in contravention of a direction made by the Central Government under sub-section (3) of section 23 fails to record in the prescribed register or to give notice of any accidental occurrence shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

71. Owner, etc., to report to Chief Inspector in certain cases.—Where the owner, agent or manager of a mine, as the case may be, has taken proceedings under this Act against any person employed in or about a mine in respect of an offence under this Act, he shall within twenty-one days from the date of the judgment or order of the court report the result thereof to the Chief Inspector.

72. Obligation of persons employed in a mine.—No person employed in a mine shall—

(a) wilfully interfere with or misuse any appliance, convenience or other thing provided in a mine for the purpose of securing the health, safety or welfare of the persons employed therein;

(b) wilfully and without reasonable cause do anything likely to endanger himself or others;

(c) wilfully neglect to make use of any appliance or other thing provided in the mine for the purpose of securing the health or safety of the persons employed therein.

73. Disobedience of orders.—Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees; or with both, and, if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

74. Contravention of law with dangerous results.—(1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable,—

(a) if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both; or

(b) if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both; or

(c) if such contravention otherwise causes injury or danger to persons employed in the mine or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

(2) Where a person having been convicted under this section is again convicted thereunder he shall be punishable with double the punishment provided by sub-section (1).

(3) Any court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative:

Provided that if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

75. Prosecution of owner, agent or manager.—No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the district magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector:

Provided that in respect of an offence committed in the course of the technical direction and management of a mine, the district magistrate shall not institute any prosecution against an owner, agent or manager without the previous approval of the Chief Inspector.

76. Determination of owner in certain cases.—Where the owner of a mine is a firm or other association of individuals, any one of the partners or members thereof or where the owner of a mine is a public company, any one of the directors thereof, or where the owner of a mine is a private company, any one of the shareholders thereof, may be prosecuted and punished under this Act for any offence for which the owner of a mine is punishable:

Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated,—

- (a) in the case of a firm, any of its partners,
- (b) in the case of an association, any of its members,
- (c) in the case of a public company, any of its directors, or
- (d) in the case of a private company, any of its shareholders,

who is resident in each case in any place to which this Act extends to assume the responsibilities of the owner of the mine for the purposes of this Act, such partner, member, director or shareholder, as the case may be, shall, so long as he continues to so reside, be deemed to be the owner of the mine for the purposes of this Act, unless notice in writing cancelling

his nomination or stating that he has ceased to be a partner, member, director or shareholder, as the case may be, is received by the Chief Inspector.

77. Exemption of owner, agent or manager from liability in certain cases.—Where the owner, agent or manager of a mine, accused of an offence under this Act, alleges that another person is the actual offender, he shall be entitled, upon complaint made by him in this behalf and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have that other person brought before the court on the date appointed for the hearing of the case; and if, after commission of the offence has been proved, the owner, agent or manager of the mine, as the case may be, proves to the satisfaction of the court—

(a) that he has used due diligence to enforce the execution of the relevant provisions of this Act, and

(b) that the other person committed the offence in question without his knowledge, consent or connivance,

the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the owner, agent or manager of the mine, and the owner, agent or manager, as the case may be, shall be acquitted:

Provided that—

(a) the owner, agent or manager of the mine, as the case may be, may be examined on oath and his evidence and that of any witness whom he calls in support shall be subject to cross-examination by or on behalf of the person he alleges as the actual offender and by the prosecutor;

(b) if in spite of due diligence the person alleged as the actual offender cannot be brought before the court on the date appointed for the hearing of the case, the court shall adjourn the hearing thereof from time to time so however that the total period of such adjournments does not exceed three months, and if by the end of the said period the person alleged as the actual offender cannot be brought before the court, the court shall proceed to hear the case against the owner, agent or manager, as the case may be.

78. Power of court to make orders.—(1) Where the owner, agent or manager of a mine is convicted of an offence punishable under this Act, the court may, in addition to awarding him any punishment by order in writing, require him within a period specified in the order (which may be extended by the court from time to time on application made in this behalf) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the owner, agent or manager of the mine, as the case may be, shall not be liable under this Act in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the court has not been fully complied with, the owner, agent or manager, as the case may be, shall be deemed to have committed

a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

79. Limitation of prosecutions.—No court shall take cognizance of any offence under this Act, unless complaint thereof has been made—

(i) within six months of the date on which the offence is alleged to have been committed, or

(ii) within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector, or

(iii) in any case where a Court of inquiry has been appointed by the Central Government under section 24, within six months after the date of the publication of the report referred to in sub-section (4) of that section,

whichever is later.

80. Cognizance of offences.—No court inferior to that of a presidency magistrate or magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

81. Reference to Mining Board or Committee in lieu of prosecution in certain cases.—(1) If the court trying any case instituted at the instance of the Chief Inspector or of the district magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee it may stay the criminal proceedings, and report the matter to the Central Government with a view to such reference being made.

(2) On receipt of a report under sub-section (1), the Central Government may refer the case to a Mining Board or a Committee, or may direct the court to proceed with the trial.

CHAPTER X.

MISCELLANEOUS.

82. Decision of question whether a mine is under this Act.—If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Central Government may decide the question, and a certificate signed by a Secretary to the Central Government shall be conclusive on the point.

83. Power to exempt from operation of Act.—The Central Government may, by notification in the Official Gazette, exempt either absolutely or subject to any specified conditions any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any of the provisions of this Act.

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 45 unless it is also exempted from the operation of all the other provisions of this Act.

84. *Power to alter or rescind orders.*—The Central Government may reverse or modify any order passed under this Act.

85. *Applications of Act to mines belonging to Government.*—This Act shall apply to mines belonging to the Government.

86. *Application of certain provisions of Act LXIII of 1948 to mines.*—The Central Government may, by notification in the Official Gazette, direct that the provisions of Chapters III and IV of the Factories Act, 1948 (LXIII of 1948) shall, subject to such exceptions and restrictions as may be specified in the notification, apply to all mines and the precincts thereof.

87. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

88. *Repeal of Act IV of 1923.*—The Indian Mines Act 1923 (IV of 1923) is hereby repealed.

THE MINES RULES, 1955.¹

CHAPTER I.

PRELIMINARY.

1. *Short title and application.*—(1) These rules may be called the Mines Rules, 1955.

(2) Except as otherwise expressly provided, the rules shall apply to every mine of whatever description to which the Act applies.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context—

(a) "the Act" means the Mines Act, 1952 (XXXV of 1952);

(b) "court of inquiry" means a court of inquiry appointed under section 24 of the Act;

(c) "form" means a form as given in the First Schedule;

(d) "section" means a section of the Act;

(e) "schedule" means a schedule appended to these rules;

(f) "manager" includes Mine Superintendent who is appointed by the owner or agent of a mine under section 17 of the Act and as such, responsible for the control, management and direction of a mine;

(g) "certifying surgeon" means a qualified medical practitioner appointed to be a certifying surgeon under section 11;

¹See Notification No. S.R.O. 1431, d/- 2.7.55, published in Gazette of India, d/- 2.7.55, Pt. II-Sec. 3, p. 1172.

(h) "month" means the period from the 1st day of any month to the last day of the same month;

(i) "calendar year" means a year from the first day of January to the thirty-first day of December;

(j) "shift" means each of the different periods of the day during which work of the same kind is carried out by one or more relay of persons.

CHAPTER II.

MINING BOARD.

3. *Mine owners' representatives.*—The two members referred to in clause (d) of sub-section (1) of section 12 shall be nominated from time to time in the manner specified by the Central Government by notification in the official Gazette.

4. *Miners' representatives.*—(1) Where in any part of the territories to which the Act extends, or for any group or class of mines, a Mining Board is constituted—

(a) if there is one registered trade union of miners entitled to nominate one or two members in accordance with sub-clause (i) or sub-clause (ii) of clause (c) of sub-section (1) of section 12, the Central Government shall call on such trade union to nominate one or two persons as the case may be;

(b) if there are two or more registered trade unions of miners entitled to nominate one or two members in accordance with the said provisions of the Act, the Central Government shall, for each vacancy, call on such registered trade unions, in rotation in such order or priority as it may deem fit, to nominate a person to fill in the vacancy,

5. *Powers to co-opt members.*—(1) The Board may at any time and for such period as it thinks fit, co-opt as members of the Board any person or persons possessing a Mine Manager's First Class Certificate of Competency or a degree or diploma in mining or special knowledge in mining affairs.

(2) A member co-opted under sub-rule (1) shall exercise all the powers and functions of a member of the Board except that he shall not be entitled to vote on any question coming before the Board.

6. *Term of office.*—A person nominated under clause (c), clause (d) or clause (e) of sub-section (1) of section 12 shall, unless he resigns his office or dies at an earlier date, hold office for a period of three years from the date of the notification appointing him a member of the Board and shall be eligible for renomination:

Provided that a member shall, notwithstanding the expiration of his term, continue to hold office until his successor is appointed.

7. *Resignation.*—(1) A member other than the Chairman may resign his office by writing under his hand addressed to the Chairman.

(2) The Chairman may resign his office by writing under his hand addressed to the Central Government.

(3) The resignation referred to in sub-rule (1) or sub-rule (2) above shall take effect from the date of its acceptance by the Chairman or the Central Government as the case may be.

8. *Absence from India.*—(1) Before a member leaves India—

(a) he shall intimate to the Chairman the date of his departure from and the date of his expected return to India;

(b) if he intends to be absent from India for a period longer than six months, he shall tender his resignation.

(2) If any member leaves India without taking the action required by sub-rule (1) he shall be deemed to have resigned with effect from the date of his departure from India.

9. *Notification of vacancies.*—(1) The Chairman shall inform the Central Government as soon as a vacancy occurs in the membership of the Board by the resignation or death of a member.

(2) In case such a vacancy occurs by the death of the Chairman information shall be furnished to the Central Government by the Chief Inspector or the Inspector nominated to the Board by the Central Government as the case may be.

10. *Disposal of business.*—(1) All questions which the Board is required to consider shall be considered either at its meetings or by circulation of papers as the Chairman may direct:

Provided that papers need not be circulated to any member who is absent from India at the time.

(2) When a question is referred by circulation of papers any member may request that the question be considered at a meeting of the Board, and thereupon, the Chairman may direct that it be so considered:

Provided that if three or more members make such a request, the Chairman shall direct that it be so considered.

11. *Time and place of meetings.*—The Board shall meet at such places and times as may be appointed by the Chairman.

12. *Notice of meetings.*—(1) The Secretary to the Board shall give at least fourteen days' notice to every member of the Board present in India of the time and place fixed for each meeting and shall send to every such member agenda of business to be disposed of at that meeting not less than seven days before the meeting:

Provided that when an emergent meeting is called, at least two days' clear notice shall be given.

(2) No business which is not on the agenda shall be considered at a meeting without the permission of the Chairman.

13. *Presiding at meetings.*—The Chairman shall preside at every meeting of the Board at which he is present. If the Chairman is absent

from any meeting, the members present shall elect one of them to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman.

14. Quorum.—No business shall be transacted at a meeting of the Board unless at least four members are present:

Provided that at any meeting in which less than four members are present, the Chairman may adjourn the meeting to a date not less than fourteen days later and inform the members present and notify other members that he proposes to dispose of the business at the adjourned meeting irrespective of the quorum, and it shall, thereupon, be lawful to dispose of the business at such adjourned meeting irrespective of the members attending.

15. Decision by majority.—(1) Every question referred to the Board by circulation of papers shall, unless the Chairman, in pursuance of sub-rule (2) of rule 10 reserves it for consideration at a meeting, be decided in accordance with the opinions of the majority sending their opinions within the time allowed.

(2) All questions referred to a meeting of the Board shall be decided by a majority of votes of the members present and voting on that question.

(3) In the case of an equal division of votes, or opinions, the Chairman shall exercise an additional vote or opinion.

(4) Any member disagreeing with a decision of the Board may enter a note of dissent which shall form part of the record of the proceedings.

16. Minutes of the meetings.—(1) The Secretary of the Board shall circulate the proceedings of each meeting to all members of the Board, present in India, and thereafter record the proceedings in a minute book which shall be kept for permanent record.

(2) The record of the proceedings of each meeting shall be signed by the Chairman.

17. Allowances to non-official members.—Travelling and daily allowance to non-official members of the Board shall be regulated in accordance with the orders regarding allowances to non-official members of committees, Commissions and Boards of Inquiry issued by the Central Government from time to time.

18. Correspondence and Accounts.—The Secretary of the Board shall conduct all the correspondence of the Board and keep its accounts.

19. Appearance at hearings.—Any appearance required to be made by a party before the Board, except for purposes of being examined as a witness, may be made either in person or by his agent duly authorised in writing, or by a legal practitioner on his behalf.

20. Proceedings to be in camera.—Unless the Chairman otherwise directs, the proceedings of the Board shall be conducted in camera and shall be regarded as confidential in nature.

CHAPTER III.

COURT OF INQUIRY.

21. *Court of Inquiry to be public.*—The person appointed to hold inquiry under section 24 of the Act shall hold the inquiry in public in such manner and under such conditions as the Court thinks most effectual for ascertaining the causes and circumstances of the accident or other occurrences and for enabling the Court to make the report.

22. *Recovery of expenses.*—(1) If a court of inquiry finds that the accident was due to any carelessness or negligence on the part of the management the court may direct the owner of the mine to pay all or any part of the expenses of the inquiry in such manner and within such time as the court may specify.

(2) The amount directed to be paid under sub-rule (1) may on application by the Chief Inspector or Inspector to a Magistrate having jurisdiction at the place where the mine is situated, or where such owner is for the time being resident, be recovered by attachment and sale of any movable property within the limits of the Magistrate's jurisdiction belonging to such owner.

CHAPTER IV.

CERTIFYING SURGEONS.

23. *Powers of Certifying Surgeons.*—A Certifying Surgeon may within the local limits of his jurisdiction or in respect of mines or class or description of mines assigned to him make such inspection, examination or inquiry as he thinks fit for the purpose of the Act and it shall be the duty of the owner, agent or manager of the mines concerned to afford the Certifying Surgeon all reasonable facilities for carrying out such inspection, examination or inquiry as the case may be.

24. *Duties of Certifying Surgeons.*—(1) For the purposes of examination and certification of young persons who desires to obtain a certificate of fitness, the Certifying Surgeon shall arrange a suitable time and place for the attendance of such persons, and shall give previous notice in writing of such arrangements to the managers of mines concerned within the local limits of his jurisdiction or mines or class or description of mines assigned to him.

(2) The Certifying Surgeon shall, upon a request being made to him by the Chief Inspector or Inspector, carry out such examination and furnish him with such reports as he may indicate in respect of any mine or class or description of mines in which operations involve any risk of injury to the health of any person or class of persons employed therein.

(3) Every certificate of fitness granted by the Certifying Surgeon shall be prepared by filling up the foil and the counterfoil of the certificate, on both of which shall be impressed the left thumb mark of the adolescent in whose name the certificate is granted.

(4) The Certifying Surgeon shall, when satisfied as to the correctness of the entries made therein sign the foil and initial the counterfoil of the certificate and shall deliver the foil to the applicant unless the adolescent has been examined in pursuance of the provision of sub-section (5) of section 41, in which case the Certifying Surgeon shall deliver the foil to the manager of the mine in which the adolescent desires to be employed.

(5) A Certifying Surgeon revoking a certificate under sub-section (2) of section 41 shall write the word "Revoked" in red ink on the foil and the counterfoil of the certificate.

25. Certificate of fitness.—A certificate of fitness granted or renewed in Form K shall be deemed to be a certificate duly granted or renewed, as the case may be, in the manner provided for the purposes of sections 40, 43 and 47.

26. Duplicate certificate.—(1) If the Certifying Surgeon is satisfied that a certificate of fitness granted under these rules has been lost or mislaid, he may on application, after such verification, as he deems fit, grant a duplicate certificate to the applicant. The word "Duplicate" shall be clearly written in red ink across any such duplicate certificate and initialled by him. The counterfoil of the certificate shall be simultaneously marked "Duplicate" and initialled.

(2) For every duplicate certificate granted under sub-rule (1), a fee not exceeding one rupee shall be payable by the applicant. The Certifying Surgeon shall maintain a register of all duplicate certificates so issued and shall initial each entry therein.

(3) No duplicate certificate shall be granted to any adolescent otherwise than in accordance with the provision of this rule.

27. Re-examination.—(1) Every adolescent in respect of whom a certificate of fitness has been issued, so long as he remains employed in a mine, shall be re-examined by the Certifying Surgeon within twelve months of the date of the examination immediately preceding.

(2) The Certifying Surgeon shall upon making such re-examination, make necessary entries in the said certificate both on the foil and counterfoil and deliver the foil to the manager of the mine.

28. Fresh examination.—(1) If any person sent up for medical examination in pursuance of section 40 or section 43 or section 47 is not certified to be fit by the Certifying Surgeon he shall not without the permission in writing of an Inspector, be sent for another medical examination unless a period of six months has elapsed from the time when he was last sent up for medical examination.

(2) Any certificate obtained in contravention of sub-rule (1) shall be void.

29. Metal Tokens.—(1) The Certifying Surgeon shall issue to every adolescent to whom a certificate of fitness is granted, a metal token stamped with the letter "P" and bearing the same serial number as the certificate.

(2) The person to whom such token is issued shall so long as the corresponding certificate remains in force, retain such token in his immediate possession and shall not transfer it or dispose of it. In the event of the corresponding certificate being revoked, the token shall be returned to the Certifying Surgeon.

(3) A duplicate token may be obtained for the reasons, in the manner and subject to the condition specified in rule 26.

(4) A record of every token so issued and the person to whom it is issued shall be maintained by the Certifying Surgeon.

CHAPTER V.

HEALTH AND SANITATION PROVISIONS.

30. Quantity of drinking water.—(1) The quantity of drinking water to be provided in a mine or any part thereof shall be on a scale of at least half-a-gallon for every person employed at any one time and such drinking water shall be readily available at conveniently accessible points during the whole of the working shift.

(2) Where 100 persons or more are employed, either above ground or in opencast workings at any one time an Inspector may by order in writing require the drinking water to be effectively cooled by mechanical or other means available.

(3) No charge shall be made for the drinking water so supplied.

31. Storage of drinking water.—(1) If drinking water is not provided from taps connected with a water supply system, it shall be kept cool in suitable vessels sheltered from the weather and shall be emptied, cleaned and refilled every day. All practical steps shall be taken to preserve the water and the containing vessels in a clean and hygienic condition.

(2) If the source of drinking water is not from a public water supply system, an Inspector may by order in writing require the owner, agent or manager of the mine to submit with the least possible delay a certificate from a competent health authority or analyst as to the fitness of the water for human consumption.

32. Decision of Chief Inspector final.—If any question arises as to whether water supply arrangements are satisfactory and in accordance with the requirements of section 19 and rules 30 and 31 the decision of the Chief Inspector shall be final.

33. Surface latrines and urinals.—(1) On the surface at every mine adequate latrine and urinal accommodation shall be provided at conveniently accessible places separately for the use of males and females employed in the mine.

(2) The scale of latrine accommodation shall be at least one seat for every 50 males and at least one seat for every 30 females employed at any one time:

Provided that where sanitary latrines are maintained in bathing places, the number of latrines to be provided under this rule may include such sanitary latrines.

NOTE.—In calculating latrine accommodation any fraction less than 50 shall be reckoned as 50.

34. Standards of construction.—Every latrine on the surface provided for the use of persons employed in a mine shall conform to the following standards of construction—

- (a) it shall be on a site approved of in writing by an Inspector;
- (b) it shall be built of brick or other suitable building material;
- (c) it shall be adequately drained and properly ventilated and afforded effective protection from the weather;
- (d) it shall be of a type approved of in writing by an Inspector;
- (e) the floors and any interior surface of walls up to a height of four feet shall be cement panned or otherwise so finished as to provide a smooth impervious surface;

(f) it shall be partitioned off so as to secure privacy and shall have a proper door and fastenings and where a latrine intended for the use of one sex adjoins a latrine intended for the use of other sex, the approaches shall be separate;

(g) where a latrine is of the service type, the service chamber shall be provided with an efficient trap door and the receptacles for night-soil shall be of galvanised iron;

(h) the interior walls, ceilings and partitions shall be whitewashed once at least in every four months, and the date of such whitewashing shall be recorded in a book kept at the mine for the purpose:

Provided that this requirement regarding whitewashing shall not apply to those parts of walls, ceilings or partitions which are laid in glazed tiles or otherwise finished so as to provide a smooth, polished and impervious surface but all these parts shall be washed with suitable detergents and disinfectants at least once in every seven days.

35. Sign Boards to be displayed.—Where persons of both sexes are employed there shall be displayed outside each latrine a sign-board in the language understood by the majority of work persons "For Males" or "For Females" as the case may be. Each sign-board shall also have the figure of a man or a woman as the case may be.

36. Provision of water for washing, etc.—(1) Where a piped water supply is available, a sufficient number of water taps, conveniently accessible, shall be provided in or near such latrines.

(2) If piped water supply is not available a sufficient quantity of water shall be kept stored in suitable receptacles near such latrines.

37. Underground latrines.—If in any mine more than fifty persons are employed underground at any one time, latrines shall be provided underground on a scale approved by an Inspector at convenient points near the working shafts and at entrances to the districts and sections of

the mine. The latrines shall be of a type approved of in writing by an Inspector.

38. Sanitation.—(1) At every mine all underground working places and travelling roads shall be kept clean from excreta.

(2) All latrines and urinals in or about a mine shall be kept in a clean and sanitary condition.

(3) Receptacles for night-soil shall be cleaned and disinfected at least once in every day.

(4) Proper arrangements shall be made on the surface for the disposal of night-soil and urine. Such arrangements shall comply with the requirements of any health authority or Mines Board within whose jurisdiction the mine is situated.

39. Obligation of work persons.—(1) No person shall wantonly misuse or damage the latrines provided either on the surface or underground.

(2) No person shall pollute the underground workings of a mine with excreta. All persons employed underground shall acquaint themselves with the sanitary arrangements provided from time to time in the sections of the mine in which they have to work or pass.

CHAPTER VI.

FIRST AID AND MEDICAL APPLIANCES.

40. It shall be the duty of the owner, agent or manager of a mine to see that adequate and suitable arrangements are made—

(i) for the training of persons in first-aid and the provision of such equipment as is prescribed in these rules;

(ii) for the speedy removal of serious cases of accidents or sickness from mines in hospitals.

41. First Aid qualifications.—No person other than a qualified nurse, dresser, compounder-cum-dresser or medical practitioner shall be appointed to render first-aid under these rules unless he is the holder of a valid first-aid certificate of the Standard of St. John's Ambulance Association (India).

42. First-aid personnel.—At every mine the first-aid arrangements on the surface, in opencast workings and below ground shall be placed in-charge of persons qualified in first-aid and the owner, agent or manager shall appoint such persons on the following scale—

(i) For every 100 persons or part thereof employed at any one time on the surface, or in opencast workings, if any, at least one qualified person;

(ii) For every 50 persons or part thereof employed at any one time below ground at least one qualified person.

43. Ambulance rooms.—(1) At every mine employing 500 or more persons on any one day of the preceding calendar year, there shall be provided and maintained in good order a suitable ambulance room.

(2) The ambulance room shall be situated at a convenient place on the surface of the mine and shall be used only for first-aid and ambulance work.

(3) The ambulance room shall have a floor space of not less than 100 square feet and shall contain at least the equipment specified in the Second Schedule.

(4) The ambulance room shall be in charge of a qualified medical practitioner assisted by at least one qualified compounder-cum-dresser, or a dresser, or a nurse authorised in writing by the manager and such medical practitioner, compounder-cum-dresser, dresser or a nurse, or either of them, shall always be readily available during the whole time persons are employed in the mine:

Provided that in any mine where in conformity with any other law for the time being in force an adequately equipped hospital or dispensary, as the case may be, is maintained the foregoing provisions shall be deemed to have been complied with.

(5) Every person who suffers an injury during the course of work shall report for examination or treatment at the ambulance room, hospital or dispensary, as the case may be, before leaving the mine irrespective of first-aid having been rendered at or near the place of work.

44. First Aid Stations.—(1) At every mine there shall be provided and maintained first-aid equipment as prescribed in the Third Schedule at one or more conveniently accessible stations above ground and in opencast workings where injured persons may receive first-aid treatment.

(2) First-aid equipment, as specified in the Third Schedule shall also be provided and maintained at suitable Stations below ground in the workings of a mine near the working shafts and haulages and at entrances to districts or sections of the mine where injured persons may conveniently receive first-aid treatment.

(3) The number of such stations shall be at least one for every one hundred persons or part thereof employed in the mine at any one time and the person or persons in charge of such stations shall be readily available throughout the shift.

(4) It shall be the duty of the person in charge of a first-aid station to see that the equipment provided under this rule is kept in good order and that it is replenished from time to time.

(5) A list of all persons in-charge of first-aid stations shall be kept pasted up in the first-aid room or on a notice board near the entrance to the mine.

45. Carrying of first-aid outfit by officials.—Every supervisory official who is in immediate charge of a mine or part and qualified to render first-aid shall carry while on duty a first-aid outfit consisting of one large sterilized dressing, one small sterilized dressing and an ampule of tincture of iodine or other suitable antiseptic. This outfit shall be securely packed to protect it against dirt and water.

CHAPTER VII.

EMPLOYMENT OF PERSONS.

46. Persons holding positions of supervision or management, etc.—For the purpose of section 37, the following shall be deemed to be persons holding positions of supervisions or management or employed in a confidential capacity—

- (a) superintendent, manager, undermanager, underground manager, underground agent, and assistant manager;
- (b) mining, electrical and mechanical engineer;
- (c) overman, foreman, assistant foreman, sirdar, shift-boss and head-mestri, or any person holding an equivalent position;
- (d) mechanical and electrical foreman;
- (e) surveyor and assistant surveyor;
- (f) medical officer, chemist, assayer, metallurgist and welfare or personnel officer;
- (g) clerk, accountant and register keeper;
- (h) any other person who in the opinion of the Chief Inspector holds a position of supervision or management.

47. Weekly day of rest.—(1) For the purpose of sections 28 and 29 a day of rest for any person shall mean a period of rest of at least 24 consecutive hours.

(2) There shall be posted up in a conspicuous place outside the office of every mine a notice showing the weekly day of rest. Where the weekly day of rest is not the same day for all persons employed in the mine the notice shall show the day of rest allowed to each relay, or set of persons, or individual.

48. Notice regarding hours of work.—(1) The notice of hours of work referred to in sub-section (1) of section 36 shall be maintained in Form A.

(2) In addition to the particulars specified in sub-sections (1) and (3) of section 36 to be shown in the notice, it shall also show the particulars of the system in which periodical changes of shifts are made for all or each set of persons employed in the mine.

(3) A copy of the notice shall be affixed on the first page in the registers maintained in Forms B, C, D and E.

49. Compensatory days of rest.—(1) The compensatory days of rest to be allowed under sub-section (1) of section 29 shall be so spaced that in any one week not more than two such days shall be allowed to any one person.

(2) On or before the last day of every month, there shall be displayed on a notice board outside the office of the mine a list of all persons who have not been allowed compensatory days of rest during that month, and the dates on which compensatory days of rest will be allowed to them in the following two months.

(3) In the event of a person being discharged or dismissed such number of compensatory days as are due to him, shall not be reckoned as part of any period of notice to which he is entitled under any rule, award, agreement or contract of service, and he shall be allowed all such days of compensatory rest before the date of his discharge or dismissal.

(4) There shall be maintained at every mine a register of compensatory days of rest in Form F.

50. Exemption from hours and limitation of employment.—For the purpose of section 39 of the Act, male adults employed in a mine on any work specified in column 1 of the Fourth Schedule shall be exempted from the provisions of the sections of the Act specified in column 2, subject to such conditions as are specified in column 3.

51. Transfer or termination of employment.—(1) When a person is transferred from one set or relay to another or from one shift to another, particulars of the same shall be entered against his name in the register maintained in Form B.

(2) When the employment of a person in a mine is terminated either due to dismissal, discharge or otherwise, the date of such termination shall be entered against his name in the said register.

52. Employment of adolescents.—No adolescent shall be employed in a mine—

(a) below ground where the dust produced in mining operations is known to constitute a hazard to health; or

(b) in close proximity to any machinery for crushing, screening or preparing mineral or rock for use or sale, where the concentration of dust in the atmosphere constitutes a hazard to health; or

(c) in any operation connected with any machinery involving risk of injury from any moving part either of the machine or any adjacent machine; or

(d) in any work which is unduly arduous; or

(e) in any apprenticeship or vocational training except under the immediate supervision of competent adult person; or

(f) alone in a place remote from other work persons.

CHAPTER VIII.

LEAVE WITH WAGES AND OVERTIME.

53. Register of leave with wages.—(1) The registers referred to in section 55 shall be maintained in Forms G and H:

Provided that if the Chief Inspector or an Inspector is of opinion that any muster roll or any register maintained in accordance with any other rules for the time being in force, gives all the particulars required for the observance of Chapter VII of the Act, he may, by an order in writing, direct that such muster roll or register shall to the corresponding extent, be maintained in place of the register in Forms G and H.

(2) The registers mentioned in sub-rule (1) shall be preserved for a period of two years after the last entry in them has been made and shall not be destroyed even after the expiry of that period unless it has been certified by an Inspector that the leave account therein has been properly transferred to the new registers.

54. Leave with wages.—(1) For the purpose of section 51, a period of twelve months continuous service shall commence with the first day of a calendar year:

Provided that for a person whose period of continuous service commences otherwise than on the first day of a calendar year, leave with wages shall be allowed in proportion hereinafter specified in sub-rule (2) if the ratio of the number of attendances put in by such a person to the number of days from the date of commencement of his service up to the last day of the calendar year is not less than the ratio of the respective attendances specified in sub-section (2) of section 51 to the number of days in that calendar year.

(2) A person entitled to leave with wages under the above proviso shall be allowed leave with wages for the number of days calculated at the rate of—

(a) in the case of an employee paid by the month one day for every 19 attendances put in by him;

(b) in case of any other employee except a loader, or one employed below ground on piece-rate basis, one day for every 38 attendances put in by him;

(c) in case of a loader or other person employed below ground on piece-rate basis, one day for every 27 attendances put in by him;

Provided that in calculating leave at the rates laid down in clauses (a), (b) and (c) no person shall be entitled to leave with wages for a period longer than those provided for in section 51.

(3) In calculating leave under this rule any fraction of leave of half-a-day or more shall be treated as one full day and fraction of less than half-a-day shall be omitted.

55. Arrears of leave.—A person who had applied for but had been refused any leave to which he was entitled shall be allowed that leave in the succeeding calendar year.

56. Payment of leave wages due if a person dies.—In the event of death of any person entitled to leave with wages all arrears of such leave wages shall accrue to his legal heirs or nominee as the case may be.

57. Leave with wages register for exempted mines.—In a mine where an exemption is granted under section 56, there shall be maintained a register showing against the name of each person full details of leave due, leave allowed and wages paid therefor in such manner as may be approved by an Inspector.

58. Period of continuous service.—For the purpose of section 51, a period of service shall be deemed to be continuous which has not been

interrupted by a period of unauthorised absence from work exceeding 14 days.

59. Overtime Register.—The register required by sub-section (4) of section 33 shall be maintained in Form L.

60. Extra wages for overtime.—For the purpose of section 33, overtime shall be paid at the end of each wage-period, and a person shall be entitled to receive overtime payment calculated on the basis of his daily wages or earnings.

NOTE 1.—In calculating overtime on any day a fraction of an hour less than 30 minutes shall be ignored and a fraction of 30 minutes or more shall be counted as one hour.

NOTE 2.—In calculating the ordinary rate of wages or earnings in the case of a person paid by the month the daily wages shall be $1/26$ th of his monthly rate of wages and in the case of any other person it shall be the ordinary rate of his daily wages or earnings as the case may be.

61. Cases of exemption under section 56.—(1) Where an exemption is granted under section 56, the Manager shall display at the main entrance of the mine, a notice giving full details of the system established in the mine for leave with wages and shall send a copy of it to the Inspector.

(2) No alteration shall be made in the Schedule approved by the Central Government at the time of granting exemption under section 56 without its previous sanction.

CHAPTER IX.

WELFARE AMENITIES.

62. Provision of Shelters.—At every mine employing 150 or more persons on any one day of the previous calendar year, there shall be provided adequate and suitable shelters at or near loading wharves, opencast workings, workshops and mine entrances where 25 or more persons are ordinarily employed at any one time, for taking food and rest:

Provided that any canteen maintained in accordance with these rules may be regarded as part of the requirements of this rule.

63. Standards of Shelters.—Every shelter shall—

(a) have a floor area of not less than 150 square feet and a height to the lowest part of the roof of not less than 9 feet;

(b) be so constructed as to afford effective protection from the weather;

(c) be constantly provided with an adequate supply of cool and wholesome drinking water during the working hours of the mine;

(d) be kept in a clean and tidy condition.

64. Provision of canteens.—At every mine employing 250 or more persons on any one day in the previous calendar year, where the Chief Inspector or Inspector so requires, there shall be provided within the precincts of the mine a canteen for the use of all persons employed:

Provided that in case of any mine or mines where a canteen is already in existence or where a single canteen is serving two or more adjoining mines, the Chief Inspector or an Inspector may, if he is satisfied that the said canteen is being run efficiently and that it adequately serves the purpose for which it has been established, waive all or any of the requirements specified in these rules.

65. Standards of canteen.—Every canteen shall—

(a) be constructed in accordance with plans and specifications approved by the Chief Inspector or Inspector;

(b) be situated not less than 50 ft. from any latrine, urinal, boiler house, engine room, coal heap, ash heap or heap of other material and any other source of dust or smoke;

(c) be sufficiently lighted during all hours when open for use;

(d) be provided with a washing place for females suitably separated or screened to secure privacy;

(e) be whitewashed or colour washed inside the rooms and passages at least once a year and woodwork and structural iron or steel work shall be varnished or painted at least once every three years:

Provided that the inside walls of the kitchen shall be whitewashed or colour washed once every four months;

(f) be provided with receptacles for garbage and have drains to carry away waste water.

66. Furniture and equipment.—In every canteen there shall be provided and maintained—

(a) sufficient furniture, utensils and other equipment necessary for its efficient operation;

(b) an adequate supply of cool and wholesome drinking water;

(c) suitable clean clothes for persons cooking and serving food, drink, etc.

67. Cleanliness.—(1) The canteen and its precincts shall be kept in a sanitary condition.

(2) An adequate supply of hot water shall be provided for cleansing utensils and equipment and all furniture, utensils and other equipment shall be kept clean and in a hygienic condition.

68. Provisions of staff.—The owner, agent or manager shall appoint supervisory and other staff sufficient for the proper working of the canteen.

69. Canteen Managing Committee.—(1) The owner, agent or manager shall appoint a Canteen Managing Committee which shall be consulted from time to time, but not less than once a month, as to the management and working of the Canteen.

(2) (a) The Committee shall consist of an equal number of members nominated by the owner, agent or manager and elected by the persons employed in the mine. The number of elected members shall be on a scale of one for every 1,000 persons employed, provided that the number shall not be more than 5 or less than 2.

(b) The term of office of the elected members shall be two years commencing from the date of the last election, no account being taken of a bye-election.

(c) The owner, agent or manager shall determine the procedure for and supervise the election to the Committee.

(3) The owner, agent or manager shall appoint either himself or his nominee as *ex officio* Chairman of the Committee and the Chairman shall preside at every meeting of the Committee.

(4) The proceedings of every meeting of the Committee shall be recorded in a minute book and shall be signed by the Chairman.

70. Prices to be charged.—Food, drink and other items served in a canteen shall be sold on a non-profit basis and the prices charged shall be subject to the approval of the Canteen Managing Committee. A list of approved prices shall be conspicuously displayed in the Canteen in English, Hindi and in the language of the district in which the mine is situated.

71. Accounts.—Proper accounts pertaining to the canteen shall be maintained. Such accounts shall be audited once every twelve months by a competent accountant or auditor, and a balance-sheet shall be submitted to the Canteen Managing Committee not later than two months after the date of closing of the accounts.

72. Welfare Officers.—(1) In every mine wherein 500 or more persons are ordinarily employed there shall be appointed at least one welfare officer:

Provided that if the number of persons ordinarily employed exceeds 2,000, there shall be appointed additional Welfare Officers on a scale of one for every 2,000 persons or fraction thereof.

(2) No person shall act as a Welfare Officer of a mine unless he possesses—

(a) a University degree;

(b) a degree or diploma in Social Science or Labour Welfare from any institution recognised by the Government and preferably practical experience of handling labour problems in any industrial undertaking for at least three years; and

(c) a knowledge of the language of the district in which the mine is situated or the language understood by the majority of persons employed in the mine.

Provided that in case of a person already in service as a Welfare Officer in a mine the above qualifications may, with the approval of the Chief Inspector, be relaxed.

(3) Where by reason of temporary absence, illness or any other similar cause, the Welfare Officer is unable to perform his duties, the owner, agent or manager shall authorise in writing a person whom he considers competent to act in his place:

Provided that no such authorities shall have effect for a period in excess of 30 days except with the previous consent of the Chief Inspector or Inspector.

(4) A written notice of every such appointment, authorisation, discharge or dismissal and of the date thereof shall be sent by the owner, agent or manager to the Chief Inspector within 7 days from the date of such appointment, authorisation, discharge or dismissal.

73. Duties of Welfare Officers.—The duties of Welfare Officers shall be—

(i) to establish contacts and hold consultations with a view to maintain harmonious relations between the management and persons employed in the mine;

(ii) to bring to the notice of the management the grievances of employees, individual as well as collective, with a view to securing their expeditious redress;

(iii) to promote relations between management and employees which will ensure productive efficiency as well as amelioration in the working conditions and to help workers to adjust and adapt themselves to their working environments;

(iv) to assist in the formation of Works and Joint Production Committees, Co-operative Societies and Safety First and Welfare Committees, and to supervise their work;

(v) to help the management in regulating the grant of leave with wages and explain to the workers the provisions relating to leave with wages and other leave privileges and to guide the workers in the matter of submission of applications for grant of leave for regulating authorised absence;

(vi) to advise on welfare provisions, such as housing facilities, food stuffs, social and recreational facilities, sanitation, individual per-personnel problems and education of children;

(vii) to supervise welfare activities, statutory or otherwise, including education and training of employees;

(viii) to suggest measures which will lend to raise the standard of living of workers and in general promote their well being;

(ix) to perform any other duty connected with the welfare of the persons employed in mines.

74. Conditions of service.—(1) A Welfare Officer shall be given appropriate status corresponding to the status of the other executive heads of the mine.

(2) The conditions of service of a Welfare Officer shall be the same as of other members of the staff of corresponding status in the mine: Provided that, in the case of discharge or dismissal, the Welfare Officer, shall have a right of appeal to the Chief Inspector whose decision thereon shall be final and binding upon the owner, agent or manager of the mine as the case may be.

CHAPTER X.

REGISTERS AND NOTICES.

75. Maintenance and production of reports, registers and other records.—All reports, registers and other records maintained in pursuance of the regulations, rules or bye-laws, unless otherwise provided for, shall—

(a) be kept at an office or the nearest convenient building within the precincts of the mines;

(b) be legibly entered in ink in English, Hindi or either in the language of the district in which the mine is situated or the language understood by a majority of the persons employed in the mine;

(c) be preserved in original for a period of one calendar year after the date of the last report or entry:

Provided that when the original record is lost or destroyed before the expiry of one year's period true copies thereof, if available, shall be preserved for the prescribed period;

(d) be produced on demand before the Chief Inspector or Inspector or any person authorised in that behalf by the Central Government.

76. Register of minor accidents.—The register required by sub-section (3) of section 23 shall be maintained in Form J.

77. Register of employees.—The register required by sub-section (1) of section 48 shall be maintained in Form B.

78. Register of daily attendance.—(1) The registers required by sub-section (4) of section 48 of persons employed in the mine (a) below-ground, (b) in opencast workings and (c) above ground shall be maintained in Forms C, D and E respectively.

(2) The entries in the register maintained in Form C shall be made at the entrance or entrances to the mine, at the time when a person against whose name the entry is made enters or leaves the mine.

(3) The entries in the registers maintained in Forms D and E shall be made at suitable points on the premises of the mine with reasonable despatch, at the commencement and end of the period of work.

79. Postings of abstracts, bye-laws and notices.—(1) The abstracts or the Act as given in the Fifth Schedule shall be posted up outside the Office of every mine in English, Hindi and either in the language of the district in which the mine is situated or the language understood by a majority of the persons employed in the mine.

(2) The bye-laws shall be posted up in the manner required by sub-section (5) of section 61, in English, Hindi and either in the language of the district in which the mine is situated or the language understood by a majority of the persons employed in the mine:

Provided that the Chief Inspector may require the abstracts and the bye-laws to be posted up in any Indian Language other than the language of the district in which the mine is situated or the language understood by a majority of the persons employed in the mine.

(3) Every notice required to be posted up under these rules shall be in English, Hindi and either in the language of the district in which the mine is situated or in the language understood by a majority of the persons employed in the mine.

(4) The abstracts, bye-laws and notices required to be posted up by the Act, regulations and the rules shall be maintained in a clear and legible condition.

CHAPTER XI.

MISCELLANEOUS.

80. Observance of local time.—For the purpose of section 4, the local mean time that shall ordinarily be observed in any class or group of mines situated in any local area, specified in column 1 of the Sixth Schedule shall be as specified in column 2 thereof.

81. Intoxicating drugs and drinks.—(1) No intoxicating drink or drug shall be carried or permitted to be carried belowground into the workings of a mine or part.

(2) No person shall, during the course of his employment in or about a mine, possess, carry or consume any intoxicating drink or drug or remain in a state of intoxication or drunkenness.

82. Occupational diseases—Fees of medical practitioner.—A medical practitioner making an examination in accordance with sub-section (2) of section 25, shall be paid as follows—

- (a) a fee not exceeding rupees sixteen for each clinical examination;
- (b) a fee not exceeding rupees sixteen for each X-ray examination;

83. Mode of payment of fees, etc.—The fees or other expenses payable by the owner, agent or manager under these rules shall be paid directly into the treasury or a branch of the Imperial Bank of India¹ and the receipt of the treasury or bank shall be sent to the Chief Inspector along with the particulars to which the fees or other expenses relate.

CHAPTER XII.

RESCISSION AND SAVINGS.

84. Rescission and Savings.—(1) All rules framed by the State Governments under section 30 of the Indian Mines Act, 1923, those contained in Chapters II, III and VI of the Mysore Gold Mines Rules, 1953, and those issued *vide* the Government of India notification No. S.R.O. 2403, dated the 12th July, 1954, are hereby rescinded, but all acts done, orders issued and certificates granted or renewed under any rule so rescinded, so far as they are not inconsistent with these rules, be deemed to have been respectively done, issued, granted or renewed under these rules.

(2) The rules contained in Chapters IV and V of the Mysore Gold Mines Rules, 1953, shall continue to apply to gold mines in the State of Mysore in addition to these rules.

¹The Imperial Bank of India having been dissolved, any reference to the Imperial Bank of India shall now be deemed to be a reference to the State Bank of India; *vide* section 51 of the State Bank of India Act, 1955 (25 of 1955) which has repealed the Imperial Bank of India Act, 1920 (47 of 1920).

FIRST SCHEDULE

FORMS

Form A

[See Rule 48(1)]

Notice of commencement and end of work

It is hereby notified that persons employed at this mine shall begin and end their periods of work between the hours set out below.

Serial No.	Class or kind of Employment	Sex	Adult or Adolescents	Place of work Above Ground working Below ground	Set or Relay Number (A, B, C, etc.)	1. Set or Relay	A	B	C	D	Etc.
1	2	3	4	5	6	2. Shift	1 2 3	1 2 3	1 2 3	1 2 3	
						Period of work					
						3. Begins* Ends*	A.M. P.M. A.M. P.M.				
						*Interval for rest if any	A.M. P.M.				
						4. Begins* Ends*	P.M. A.M. P.M.				
						5. System of change of shifts					
						6. Date on which this notice was first exhibited					

Note:—*The words and letters not required shall be scored out.

Signature of Manager,

Date.....

Name of the Mine.....

Owner.....

FORM B.

[See Rules 48(3), 51 and 77] Year Ending.....19

Register of employees

Name of Mine—

Name of Owners—

Serial number	Name and surname of employee	Father's/Husband's Name	Age and Sex	Nature of employment (Above or Below ground or open cast workings)	Class or kind of employment (Set or Relay)	Particulars of Transfer to another set or relay	Serial number	Home address of employee (Village, Thana, District)	Date of commencement of employment	Date of termination or leaving of employment	Signature or Thumb impression of employee	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13

NOTE FOR ADOLESCENTS ONLY

Serial Number and date of certificate of fitness shall be entered in the remarks column.

Month.....

Week Ending			Week Ending			Week Ending			Week Ending			Week Ending		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Relay	Shift	Date of weekly rest	Relay	Shift	Date of weekly rest	Relay	Shift	Date of weekly rest	Relay	Shift	Date of weekly rest	Relay	Shift	Date of weekly rest

Signature of Register Keeper.

FORM C

[See Rules 48(3) and 78]

Register of persons employed below ground during the week commencing.....and ending.....to

Part or Section of Mine.....

Name of Mine.....

Hours of Shift, Begins

Name of Owner.....

Ends

A.M.

P.M.

A.M.

P.M.

Serial Number	Name and surname of employee	Age and Sex	Class or kind of employment	Relay and Set No.	Serial No. from Form B Register	Time should be recorded against each entry												Total		Remarks					
						—day	—day	—day	—day	—day	—day	—day	—day	—day	No. of days worked	No. of hours worked									
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23			
						In	Out	In	Out	In	Out	In	Out	In	Out	In	Out	In	Out						
INITIALS OF REGISTER						WEEKLY ABSTRACT												Miners including loaders		Adolescents		Others			
																								Total No. of attendances	

Karnataka

FORM D

[See Rules 48(3) and 78]

Register of persons employed in opencast working during the week commencing.....and ending.....

Name of Mine..... Part or Section of Mine.....
 Name of Owner..... Hours of Shift..... Begins..... A.M.
 Ends..... P.M.

Serial Number	Name and surname of employee	Age and Sex	Class or kind of employment	Relay and Set No.	Serial No. from Form B Register	Time should be recorded against each entry														Total		Remarks	
						—day	—day	—day	—day	—day	—day	—day	—day	—day	—day	No. of days worked	No. of hours worked						
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
						In	Out	In	Out	In	Out	In	Out	In	Out	In	Out	In	Out				
INITIALS OF REGISTER KEEPER						WEEKLY ABSTRACT				Miners including Loaders		Adolescents		Women		Others							
						Total No. of attendance																	
						Total No. of absentees																	

FORM E

[See Rules 48(3) and 78]

Register of persons employed above ground during the week commencing.....and ending.....19

Name of Mine..... Part or Section of Mine.....

Hours of Shift.....

Beginns..... A.M.
P.M.

Ends..... A.M.
P.M.

Serial Number	Name and surname of employee	Age and Sex	Class or kind of employment	Relay and Set No.	Serial No. from Form B Register	Time should be recorded against each entry														Total	Remarks		
						—day		—day		—day		—day		—day		—day		—day					
						In	Out	In	Out	In	Out	In	Out	In	Out	In	Out	In	Out				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
						In	Out	In	Out	In	Out	In	Out	In	Out	In	Out	In	Out				

INITIALS OF REGISTER		WEEKLY ABSTRACT		Men	Women	Adolescents
Keeper						
		Total No. of attendances				
		Total No. of absentees				

FORM F

Name of Mine.....

[See Rules 49(4)]

Owner

Register of Compensatory Days of Rest

Year

Serial No. from Form B	Name and surname of employee	Class or kind of employment or Relay No.	No. of days of compensatory rest due in the previous calendar year	Dates on which weekly days of rest have been allowed				Dates on which compensatory days of rest have been allowed				No. of days of compensatory rest due on 31st December	Remarks
				1st January to 31st March	1st April to 30th June	1st July to 30th September	1st October to 31st December	1st January to 31st March	1st April to 30th June	1st July to 30th September	1st October to 31st December		
1	2	3	4	5	6	7	8	9	10	11	12	13	14

[illegible]

Yenitürk, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 26

1	2	3	4	5	6	7	8	9	10	11	Remarks
Serial Number	Date of entry	Date and hour of accident	Classification of accident	Name and Surname of person injured	Class or kind of employment	Nature of injury	Date of return of the injured person to work	Duration of enforced absence from work	Initial of attending Medical Practitioner		

Note.—In the event of an injury proving "serious" or "fatal", or when an injured person proceeds on leave or leaves his employment particulars shall be entered in the Remarks column.

SECOND SCHEDULE

[See Rule 43(3)]

Equipment of an ambulance room.

- (a) A stretcher and a table of convenient height (about 2½ feet) large enough to stand the stretcher on;
- (b) a bench or chairs and one screen;
- (c) a glazed sink with water readily available;
- (d) soap, towel and nail brush;
- (e) a supply of suitable sterilized dressings, cotton wool, bandages and adhesive plaster;
- (f) a supply of tincture of iodine (2 per cent. alcoholic solution) or other antiseptic solution;
- (g) blankets and hot-water bottles;
- (h) sets of splints (4½ ft., 3 ft. and 1 foot), with necessary triangular bandages for applying them;
- (i) a supply of drinking water and a drinking vessel;
- (j) a tourniquet, scissors and safety pins;
- (k) a pair of artery forceps;
- (l) one eyebath;
- (m) two clinical thermometers;
- (n) one record syringe (5 c.c.);
- (o) an adequate supply of anti-tetanus serum and morphine ampules;
- (p) first aid boxes or cupboards not less than one for every 150 persons employed in the mine stocked with requisites specified in the Third Schedule; and
- (q) stove or other apparatus for boiling water.

THIRD SCHEDULE

[See Rule 44(1)]

Requisites of a first-aid station.

- (a) A stretcher with two blankets;
- (b) sets of splints (4½ ft., 3 ft., 1 ft.) with necessary triangular bandages for applying them;
- (c) first-aid boxes or cupboards not less than one for every 150 persons employed containing at least—
 - (i) a sufficient supply of large and small sterilized dressings and burn dressings;
 - (ii) a sufficient supply of sterilized cotton-wool and of adhesive plaster;
 - (iii) a supply of roller bandages;
 - (iv) a supply of tincture of iodine or other antiseptic solution;
 - (v) a tourniquet, scissors and safety pins; and
 - (vi) a piece of carbolic soap.

NOTE.—Each first-aid box or cupboard shall be distinctly marked with the sign of Red Cross and with the words "FIRST AID" and nothing except appliances or requisites for first-aid shall be kept in it.

FOURTH SCHEDULE

(See Rule 50)

Exemptions from hours and limitations of employment.

Nature of work	Extent of exemption	Conditions attached to exemption
1. Emergency involving serious risk to the safety of the mine or of persons employed therein such as accidental explosion, ignition of gas, spontaneous heating, outbreak of fire, influx of noxious gases, irruption of water, premature collapse of any part of a mine or failure of power supply.	Sections 28, 30, 31, 34 and 36 (5).	(1) No person shall be employed on such work for more than 12 hours on any one day and 66 hours during each period of seven consecutive days commencing from his first employment on such work. (2) The report referred to in sub-section (2) of section 38 shall be sent to the Chief Inspector on or before the last day of each month.
2. Urgent work in case of— (i) an accident actual or apprehended in a mine involving work such as, clearing of falls of ground or erecting or withdrawing of supports or completion of blasting operations; or (ii) a breakdown of any machinery, plant or equipment in a mine involving repairs, renewals or alterations necessary to avoid stoppage of normal mining operations.	Sections 28, 30, 31, 34 and 36 (5).	(1) No person shall be employed beyond the limits of overtime specified in section 35. (2) The report referred to in sub-section (2) of section 38 shall be sent to the Chief Inspector on or before the last day of each month.

FIFTH SCHEDULE.

[See Rule 79(1)]

ABSTRACTS OF THE ACT.

Inspectors.

1. Any Inspector may enter and inspect any mine (by day and night) and make such examination and enquiry as may be necessary, to determine the condition of the mine and to ascertain whether the provisions of this Act and of the Regulations, Rules and Bye-laws are being observed. If he has reason to believe that these provisions have been or are being contravened, he may search any place and take possession of any register or record concerning the mine. (Section 7).

2. Any Government servant, duly authorised by the Chief Inspector or an Inspector, may enter any mine for the purpose of surveying, levelling and measuring after giving at least three days' notice to the manager. (Section 8).

3. Every owner, agent or manager of a mine shall afford every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or enquiry under this Act. (Section 9).

Management of Mines.

4. Every mine shall be under the control, management and direction of one manager having the prescribed qualifications. (Section 17).

5. The owner, agent and manager of every mine shall be responsible that all operations carried on in connection with the mine are conducted in accordance with the provisions of this Act and of the Regulations, Rules and Bye-laws and any order made thereunder. (Section 18).

Provision of Drinking Water, Ambulance Appliances and Latrines.

6. In every mine, both above and below ground—

(a) a sufficient supply of cool and wholesome drinking water shall be provided and maintained at suitable points conveniently situated for all persons employed in the mine. (Section 19).

(b) A sufficient number of first-aid boxes shall be provided and maintained. (Section 21).

(c) A sufficient number of latrines and urinals separately for males and females, shall be provided in every mine at suitable places accessible at all time to all persons employed in the mine. All latrines and urinals shall be maintained in a clean and sanitary condition. (Section 20).

Accidents.

7. Where there occurs in or about a mine an accident causing loss of life or serious bodily injury or any dangerous occurrence, a notice in the prescribed form shall be sent to the prescribed authorities and simultaneously a copy of such notice shall be posted at the mine on a special notice board and kept posted in not less than two months from the date of such posting. (Section 23).

8. Where any person employed in a mine contracts any disease connected with mining operations, the owner, agent or manager shall send notice thereof to the Chief Inspector and to such other authorities as may be prescribed. (Section 25).

Hours and Limitation of Employment.

9. No person shall work in a mine on more than six days in any one week. (Section 28).

10. If any person works, as provided under this Act, on any day of rest fixed for him he should be given a compensatory day of rest within that or the following two months. (Section 29).

11. No adult shall work above ground in a mine for more than forty-eight hours in a week or for more than nine hours in any day and he shall have at least half an hour's rest after working for not more than five hours. The spreadover of the period of work including rest interval shall not normally be more than 12 hours. (Section 30).

12. No adult shall work below ground in a mine for more than forty-eight hours in a week or for more than eight hours in any day, except that a pump-minder, an onsetter or attendant of continuously operated machinery may work for not more than nine hours on any day or for not more than fifty-four hours in any week. (Section 31).

13. Where a person works in a mine for more than forty-eight hours, whether above or below ground, he shall get, for such overtime work, wages at the rate of—

(a) twice his ordinary rate of wages, for underground work; and

(b) one and a half times his ordinary rate of wages for work above ground.

'Ordinary rate of wages' means the basic wages plus such allowances including the cash equivalent of the advantage accruing through the sale on a concessional basis of food-grains and other articles but does not include a bonus. (Section 33).

14. No person shall be allowed to work in a mine who has already been working in any other mine within the preceding 12 hours. (Section 34).

15. Except as may be permitted under section 39(a), no person shall work for more than ten hours in any day, inclusive of overtime, nor shall the total number of hours of his overtime work exceed fifty in any one quarter. (Section 35).

16. The Manager of every mine shall post outside the office a notice of working hours and no person shall be allowed to work otherwise than in accordance with the notice. (Section 36).

17. The provisions regarding weekly day of rest, hours of work above and below ground and of section 36 shall not apply to supervising staff. (Section 37).

18. In case of an emergency, the manager may permit in accordance with the rules under section 39 persons to be employed in contravention of the provisions regarding hours of work. (Section 38).

Employment of Adolescents.

19. No person aged between 15 and 18 years shall work underground in a mine unless he has been certified as fit for work as an adult by a Certifying Surgeon and carries, while at work, a token giving a reference to such certificate and he shall have rest for at least half an hour after not more than four and a half hours of continuous work. He shall not be employed between 6 P.M. to 6 A.M. (Section 40).

20. A certificate of fitness granted or renewed for the purpose of section 40 shall be valid only for 12 months and may be conditional regarding employment in general or regarding the nature of work and may be revoked by a Certifying Surgeon if the holder of a certificate is no longer fit for the work specified in the certificate. Where a certificate or the renewal of a certificate is refused a Certifying Surgeon shall state his reasons for refusal if the person concerned so requires. The adolescent or

his parents shall not be liable to pay any fees for medical examination under section 40 in all cases where he is sent by the manager of the mine in which he will be employed if found fit. (Section 41).

21. An adolescent, granted a certificate of fitness and working in a mine shall be considered to be an adult for the purposes of this Act. (Section 42).

22. Where an Inspector is of opinion that any person working in a mine without a certificate of fitness is an adolescent or that an adolescent working with such a certificate is no longer fit, he may ask the manager not to employ such person till he is examined or re-examined as the case may be and declared fit by a Certifying Surgeon or certified by him not to be an adolescent. (Section 43).

23. (1) No adolescent who has not been granted a medical certificate certifying that he is fit for work as an adult shall be employed or permitted to be employed above ground or in any workshop or power station in a mine or in any open cast workings in a mine—

(a) for more than four and a half hours in any day; or

(b) between the hours of 6 P.M. and 6 A.M.

(2) The period of work of all such adolescents employed in a mine shall be limited to two shifts which shall not overlap or spread over more than five hours each, and each such adolescent shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 28 shall apply to such adolescents and notwithstanding anything contained in sub-section (1) of section 38 or in section 39, no exemption from the provisions of section 28 shall be granted in respect of any adolescent. (Section 44).

Employment of Women and Children.

24. No person below the age of fifteen years shall be employed in any mine or allowed to be present in any part of a mine which is below ground or in any open excavation in which any mining work is being done. (Section 45).

25. No woman shall be employed at any time of the day or night in any part of a mine which is below ground, and no woman shall be employed in any mine above ground or in open cast excavations except between the hours of 6 A.M. and 7 P.M. (Section 46 and Notification S.R.O. 1395 dated 9th August 1952).

Registration of Workers.

26. For every mine, there shall be kept a register of employees showing in respect of each person his or her name, age, sex, nature of employment, the periods of work, the intervals and days of rest, the relay to which he or she belongs, reference to the certificate of fitness in case of an adolescent and the entries in the register shall be authenticated by the

signature or thumb impression of the person concerned. There shall also be kept separate registers for work persons working (a) below ground (b) in open cast workings and (c) above ground showing in respect of each person the name, nature of his employment and the hours of relay and the relay to which he belongs. The register of persons employed below ground shall show at any moment the name of any person who is then present below ground in the mine. (Section 48).

Leave with Wages.

27. Every person employed in a mine who has completed twelve months' continuous service (not less than 190 attendances in case of loaders or piece-rated workers working below ground and not less than 265 attendances for other persons) in the mine, shall be allowed, during the following twelve months, leave with full pay:

(a) for fourteen days, in case of monthly paid staff;

(b) for seven days, in case of other workers.

No application for leave shall ordinarily be refused. If any person is discharged before he can take leave to which he is entitled he shall be paid his wages or pay for that period of leave. (Section 51).

28. For the leave allowed to a loader or a piece-rated worker employed below ground he shall be paid at the rate of daily average earnings during the month of December. For the leave allowed to a person who is paid weekly or monthly the rate shall be equal to his normal daily wages during the week preceding his leave. Daily average earnings or wages shall include cash equivalent of free foodgrains and other cash compensation drawn during the period concerned. (Section 52).

29. Any monthly paid employee who has been granted leave for ten days or more and any weekly paid employee or a loader or piece-rated worker working below ground who has been granted leave for five days or more shall be paid in advance the wages due for the period of the leave allowed. (Section 53).

Penalties.

30. Any person obstructing an Inspector in the execution of his duties may be punished with imprisonment up to three months or a fine up to Rs. 500/-; or both. (Section 63).

31. Whoever makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true, may be punished with imprisonment up to three months or a fine up to Rs. 500/-; or both. (Section 64).

32. Whoever knowingly uses for himself a certificate of fitness granted (under section 40) to some other person or allows a certificate of fitness granted to him to be used by any other person, may be punished with imprisonment up to one month or a fine up to Rs. 40/-; or both. (Section 65).

33. If any person below 18 years of age is employed in more than one mine on any day, his parents, guardian or custodian may be punished with a fine up to Rs. 50/-. (Section 68).

34. If any mine is run without a manager, the owner or agent may be punished with imprisonment up to three months or with fine up to Rs. 500/-; or both. (Section 69).

35. Whoever fails to give notice of any accidental occurrence or to post a copy of the notice on a special notice board, may be punished with imprisonment up to three months or a fine up to Rs. 500/-; or both. (Section 70).

36. No person shall interfere with, misuse or wilfully neglect to make use of any appliance provided for the purpose of health, safety or welfare of the workers, or wilfully do anything likely to endanger himself or others. (Section 72).

37. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law, or of any order made thereunder, for which no penalty is expressly provided may be punished with imprisonment up to three months, or a fine up to Rs. 1,000/-; or both. (Section 73).

38. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder may be punished:

(a) if such contravention results in loss of life, with imprisonment up to one year or a fine up to Rs. 5,000/-; or both,

(b) if such contravention results in serious bodily injury, with imprisonment up to six months or a fine up to Rs. 2,000/-; or both. (Section 74).

SIXTH SCHEDULE.

(See Rule 80).

1	2
Coal Mines situated in the district of Lakhimpur in the State of Assam.	One hour in advance of Indian Standard Time.

THE MINES (POSTING UP OF ABSTRACTS) RULES, 1954¹.

1. *Short title.*—(1) These rules may be called the Mines (Posting up of Abstracts) Rules, 1954.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context, "the Act" means the Mines Act, 1952 (XXXV of 1952), and "section" means a section of the Act.

3. *Posting up of abstracts from the Act.*—(1) The abstracts of the Act contained in the Schedule annexed hereto shall be posted up outside

¹ See Notification No. S.R.O. 2403, d/- 12.7.54, published in Gazette of India, d/- 17.7.54, Pt. II-Sec. 3, p. 1797.

the office of every mine in English, Hindi and either in the language of the district in which the mine is situated or the language understood by a majority of the persons employed in the mine, and shall be maintained in clear and legible condition.

(2) Notwithstanding anything in sub-rule (1), the Chief Inspector or an Inspector may require the said abstracts to be posted up at any other place or in any other language.

SCHEDULE.

[See ABSTRACTS OF THE ACT given in the FIFTH SCHEDULE of the Mines Rules, 1955, at pp. 734-739, *ante*.]

THE COAL MINES RESCUE RULES, 1939.*

CHAPTER I.—PRELIMINARY.

1. *Short title and commencement.*—(1) These rules may be called the Coal Mines Rescue Rules, 1939.

(2) Rules 1 to 27 shall come into force at once. The remaining rules shall come into force on such date as the Central Government may by notification in the *Gazette of India* appoint.

2. *Extent.*—These rules shall apply to—

(i) the area known as the Jharia coalfield in the province of Bihar and

(ii) the area known as the Raniganj coalfield in the provinces of Bengal and Bihar.

3. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context,—

(a) "The Act" means the Indian Mines Act, 1923;[†]

(b) "Chief Inspector" means the Chief Inspector of Mines;

(c) "Committee" means the Rescue Stations Committee constituted under rule 4;

(d) "Member" means a member of the Committee; and

(e) "President" means the President of the Committee.

CHAPTER II.—CONSTITUTION AND PROCEDURE OF COMMITTEE.

4. *Constitution of Rescue Stations Committee.*—(1) The Central Government shall constitute a Committee consisting of the following members for the establishment, maintenance and management of Rescue Stations in the areas to which these rules apply, namely:—

(i) an Inspector of Mines, nominated by the Chief Inspector;

(ii) one person nominated by the Indian Mining Association;

(iii) one person nominated by the Indian Mining Federation;

(iiii) one person nominated by the Indian Colliery Owners' Association;

* See Labour Notification N. M-955, d/- 9.2.39.

† See now the Mines Act, 1952 (35 of 1952).

(iv) one person nominated by the National Association of Colliery Managers, Indian Branch;

(v) one person nominated by the Indian Mine Managers Association; and

(vi) three persons to represent the interests of persons employed in the mines in the areas to which these rules apply of whom two shall be nominated in the manner prescribed in clause (c) of section 10 of the Act and the third by the Central Government:

Provided that, if any authority or body entitled to nominate any member fails to make any nomination within a period of thirty days from the date it is called upon by the Central Government to make the nomination, the Central Government may nominate a member to fill the vacancy.

(2) The members shall elect one of their number as President.

(3) No act done by a Committee shall be questioned on the ground merely of existence of any vacancy in, or any defects in the constitution of the Committee.

5. *Term of office.*—(1) Save as otherwise provided in these rules, a member shall hold office for three years from the date of his appointment and shall be eligible for re-nomination: Provided that an outgoing member may continue in office until the appointment of his successor is notified.

(2) A member nominated to fill a casual vacancy or a member appointed by the Central Government on the failure of any authority or body entitled to make a nomination, shall hold office so long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred or the nomination had been made, as the case may be.

(3) Inspectors of Mines shall hold office as directed by the Chief Inspector.

(4) Save as otherwise provided in these rules, the President shall hold the office of President for a period of three years from the date of his election and shall be eligible for re-election:

Provided that on ceasing to be a member, the President shall be deemed to have vacated the office of President and shall not, so long as he is not a member, be eligible for re-election.

6. *Resignation.*—(1) A member other than the President may resign his office by letter addressed to the President.

(2) The President may resign his office by letter addressed to the Central Government.

7. *Absence from India.*—(1) Before a member leaves India—

(a) he shall intimate to the President the date of his departure from and the date of his expected return to India; and

(b) if he intends to be absent from India for a longer period than six months, he shall tender his resignation.

(2) If any member leaves India without taking the action required by sub-rule (1), he shall be deemed to have resigned with effect from the date of his departure from India.

(3) If the President leaves India without resigning his office as President, he shall be deemed to have resigned from the date of his departure from India.

8. *Vacation of office.*—(1) A member shall be deemed to have vacated his seat on the Committee—

(a) if he becomes bankrupt or insolvent or suspends payment or compounds with his creditors; ²[or]

(b) if he is convicted of any offence which is punishable under the Indian Penal Code and is under the provisions of the Criminal Procedure Code non-bailable; or

(c) if he is absent from meetings of the Committee during a period of three consecutive months without leave of absence from the Committee; ³[or]

²[(d) if, in the opinion of the Central Government, it is not desirable that he should continue to be a member of the Committee.]

(2) The Central Government may after such inquiry as it deems necessary declare that the President has vacated his office and the Committee shall thereupon elect another member as President.

9. *Time and place of meetings.*—(1) The President may at any time call a meeting of the Committee and shall do so if a requisition for that purpose is presented to him by four other members.

(2) The meetings of the Committee shall, unless the President in any case otherwise directs, be held at Dhanbad.

10. *Notice of meetings.*—Not less than seven clear days before any meeting of the Committee notices of the time and place of the intended meeting, signed by the President, shall be left at or posted to the usual place of residence of every other member:

Provided that in cases of urgency an emergency meeting may be summoned at any time by the President who shall inform the other members of the subject-matter for discussion and the reasons for which he considers it urgent. Business not arising out of the subject-matter shall not be introduced or transacted at an emergent meeting.

11. *Presiding at meetings.*—The President shall preside at every meeting of the Committee at which he is present. If the President is absent from any meeting the members present shall elect one of their member to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the President.

12. *Quorum.*—No business shall be transacted at a meeting of the Committee unless at least four members are present:

Provided that if at any meeting less than four members attend the President may adjourn the meeting to a date not less than seven days later and inform the members present and notify other members that he

² Added by Notification No. 2096, d/- 21.12.51; vide Gazette of India, d/- 29.12.51, Pt. II-Sec. 3, p. 2200.

proposes to dispose of the business at the adjourned meeting irrespective of a quorum, and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number attending.

13. Powers and duties of the President.—The President shall be the Principal Executive Officer of the Committee and, in addition to the other powers and duties conferred upon him by these rules, shall—

(a) present all important papers and matters to the Committee as early as practicable;

(b) issue orders as to the method of carrying out the decisions of the Committee;

(c) sign or, subject to a resolution by the Committee, authorise some other person to sign, cheques issued on behalf of the Committee;

(d) grant or, subject to a resolution by the Committee, authorise some other person to grant, receipts on behalf of the Committee for all moneys received under these rules;

(e) maintain or, cause to be maintained an account of the receipts and expenditure of the Committee; and

(f) present an annual draft report on the working of the Committee to the Committee for approval and submit the report in the form approved by the Committee to the Central Government.

14. Disposal of business.—(1) All questions which the Committee is required to take into consideration shall be considered either at its meetings or by circulation of the papers as the President may direct.

(2) When a question is referred by circulation of papers any member may request that the question be considered at a meeting of the Committee. If three or more members make such a request, the President shall direct that it be so considered; and if any member makes such a request, he may direct that it be so considered.

15. List of Business.—(1) The President shall circulate to the other members at least three days before a meeting of the Committee a list of business to be disposed of at that meeting.

(2) No business not on the list shall be considered without the permission of the President.

16. Decision by majority.—(1) Every question at a meeting of the Committee shall be decided by a majority of votes of the members present and voting on that question.

(2) Every question circulated to the members shall, unless the President in pursuance of sub-rule (2) of rule 14 reserves it for consideration at a meeting, be decided in accordance with the opinions of the majority recording opinions.

(3) In the case of an equal division of votes or opinions, the President shall exercise an additional vote or opinion.

17. Committee's establishment.—(1) The Committee shall, from time to time, fix the scale of establishment and the salaries and allowances of all officers and servants to be employed by it and require security in such instances and to such amount as it thinks fit.

(2) Subject to the scale of establishment fixed under sub-rule (1), the President shall have power to appoint, dismiss, grant leave to, suspend or reduce any person in the service of the Committee;

Provided that—

(a) no person shall be appointed to, or dismissed from, an office the salary of which is one hundred and fifty rupees or upwards without the sanction of the Committee at a meeting;

(b) the grant of leave, pay and allowances to officers and servants of the Committee, who are not Government servants, shall be regulated by rules made by the Committee.

18. *Remuneration of members.*—(1) Each member shall be paid Rs. 16 for each meeting attended by him, subject to a maximum of Rs. 32 for any one calendar month.

(2) A member performing a journey to attend a meeting or with the approval of the Committee, on other business of the Committee shall be paid—

(a) if a non official, the actual travelling expenses incurred by him in performing the journey not exceeding the travelling allowance admissible to a Government servant of the first grade for a journey on tour;

(b) if a Government servant, such travelling allowance as would be admissible to him under the appropriate rules if the journey had been performed on Government duty.

CHAPTER III.—FUND AND ACCOUNTS.

19. *Imposition of excise duty.*—There shall be levied and collected on all coal and coke despatched by rail from collieries or coke plants situated in the areas to which these rules apply a duty of excise at the rate of 1½ pies per ton for one year from the 1st day of May 1939, and thereafter at such rates as the Central Government may, after consulting the Committee by Notification in the *Gazette of India*, fix:

*[Provided that, when it is proved to the satisfaction of the Committee or any person authorised in this behalf by the Committee, that any coal, on which duty of excise had previously been collected:

(a) has been used in the manufacture of any coke; or

(b) has been sent to the washery;

and that duty has also been collected on such coke or the washed coal, as the case may be, the Committee or the authorised person may order refund to the person from whom such duty was collected of an amount equal to the duty of excise collected on the original coal less deduction of such percentage of the duty as the Central Government may, by general or special order, specify as the cost of collection of the duty:

Provided further that no claim for any such refund shall be entertained unless it is preferred within one year from the end of the quarter to which the claim relates.]

* Substituted for original proviso by Notification No. S.R.O. 38, d/- 31.12.52; vide *Gazette of India*, d/- 10.1.53, P. II-Sec. 3, p. 41.

19. Recovery of excise duty.—(1) The excise duty imposed under rule 19 shall, when the coal or coke is despatched by rail from collieries to any station in the Indian Dominion, be collected by the Railway Administration concerned by means of a surcharge on freight and such duty of excise shall be recovered—

(a) from the consignor, if the freight charges are being pre-paid at the forwarding station;

(b) from the consignee, if the freight charges are collected at the destination of the consignment; or

(c) from the party paying the freight if the consignment is booked on the "weight only" system.

(2) Where the coal or coke is despatched by rail from collieries to stations outside the Indian Dominion, the duty of excise shall be recovered from the consignor at the forwarding station, in all cases.

(3) In collecting the amount of excise duty payable on any one consignment, a fraction of an anna shall be rounded off to the nearest anna.]

21. Weight for charge.—For the purposes of the levy of the excise duty, the actual weight of a consignment, rounded off to the nearest ton, shall be taken into account.

22. Remittance of excise duty to the Committee.—The total amount of excise duty collected by each Railway Administration in respect of despatches from the areas to which these rules apply, less—

(a) refunds and write-offs, authorised by Railway Administration under rule 23;

(b) a deduction of such percentage not exceeding ten as the Central Government may, by notification in the *Gazette of India*, fix, towards the cost of collection shall be remitted quarterly to the Government treasury at Dhanbad for the credit of the Committee.

23. Refunds and recoveries.—Where the amount of the excise duty due under these rules has not been collected or where the amount collected is in excess of the amount due, the Railway Administration shall deal with the undercharge or overcharge as the case may be, on the same principles as apply to undercharges and overcharges in regard to railway freight charges.

* Substituted for original rule 20 by Notification No. L.P. 159(5), d/- 15-6-49; vide *Gazette of India*, 1949, Pt. 1, p. 773.

* (i) The rate of duty of excise referred to in rule 19 was fixed at $1\frac{1}{2}$ pies per ton with effect from 1st May 1940 (vide Department of Labour, Notification No. M-1278, dated the 16th April 1940), at 2 pies per ton from the 1st October 1942 (vide Department of Labour, Notification No. M-955, dated the 17th September 1942), and at $2\frac{1}{2}$ pies per ton from the 15th May 1943 (vide Department of Labour, Notification No. M-955, dated the 14th April 1943).

(ii) In pursuance of clause (b) of rule 22, the Central Government is pleased to fix, with effect from 1st April 1947, two as the percentage which each Railway Administration shall be entitled to deduct, towards the cost of collection, from the total amount of excise duty collected by it under the said rules.

24. Deposit of moneys.—All excise duty and other moneys received on behalf of the Committee shall be deposited in the Government treasury at Dhanbad to the credit of the Committee:

Provided that the Committee may from time to time authorise the retention in the charge of the President or any other person of such sum as it thinks fit as petty cash to meet contingent expenditure.

25. Application of excise duty and other moneys received.—The proceeds of the excise duty and any other moneys received by the Committee shall be applied to meeting the expenses of the committee and the maintenance and upkeep of the Rescue Stations.

26. Keeping, auditing and publication of accounts.—(1) The Committee shall keep accounts of all moneys received and expended during each financial year.

(2) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Central Government.

The auditors may disallow any item which has, in their opinion, been expended out of any moneys so received otherwise than as directed by or under these rules.

(4) If any item is disallowed, an appeal may be made to the Central Government whose decision shall be final.

(5) The audited statement of receipts and expenditure together with the annual report referred to in clause (f) of rule 13 shall be submitted to the Central Government not later than July in each year.

(6) An abstract statement of the receipts and expenditure shall be published annually in the *Gazette of India*.

CHAPTER IV.—RESCUE STATIONS.

27. Maintenance and location of Rescue Stations.—(1) The Committee shall establish as early as practicable and maintain one Rescue Station in the Jharia coalfield and one Rescue Station in the Raniganj coalfield.

(2) The Station shall be located—

(a) for the Jharia coalfield within a radius of four miles from the Dhanbad Railway Station;

(b) for the Raniganj coalfield within a radius of five miles from the Asansol Railway Station.

28. Appointment of Superintendents.—Each Rescue Station shall be placed under the control of a competent Superintendent who—

(i) has been for two years a Superintendent or Inspector at a rescue station or a member of a permanent rescue corps, or

(ii) has been fully trained in rescue work, and has had five years' practical experience of underground work in a mine.

29. Appointment of Instructors.—(1) Not less than three competent instructors shall be employed at each Rescue Station to train rescue workers.

(2) No person shall be appointed as an instructor unless he has had at least three years' practical experience of underground work in a mine.

(3) The superintendent of the station may be included as an instructor for the purpose of sub-rule (1).

(4) At least one instructor shall always be in attendance at the Station and one instructor shall be appointed to take charge of the Station in the absence of the Superintendent.

30. Permanent Rescue Corps.—(1) A permanent rescue corps shall be maintained at each Rescue Station. Exclusive of the Superintendent and of the person appointed to take charge of the Station in his absence, the corps shall consist of not less than six fully trained men. One or more members shall be trained to act as leaders.

(2) It shall be the duty of the corps—

(a) to conduct rescue work and take all practicable steps to minimize danger in mines after any explosion or outbreak of fire or dangerous irruption of noxious or inflammable gas;

(b) generally to fulfil any other obligations imposed upon them by these rules.

(3) A permanent rescue corps of a Rescue Station shall not be employed for reopening or recovering mines or parts thereof, which has been closed or sealed on account of explosion, outbreak of fire or irruption of noxious or inflammable gas, except at the discretion of the Committee.

31. Attendance of Corps at Station.—The members of the rescue corps maintained at a Rescue Station shall be continuously employed at the Station, and in constant residence there.

32. Rescue apparatus and equipment.—(1) At every Rescue Station there shall be provided and maintained, in good order and ready for immediate use, apparatus and equipment suitable and sufficient to enable the requirements of these rules to be carried out. Such apparatus and equipment shall include that specified in Schedule 1 to these rules.

(2) The following apparatus and equipment to be provided in pursuance of sub-rule (1) shall be of a type or standard approved by the Chief Inspector:—

(a) breathing apparatus;

(b) smoke helmets and other apparatus serving the same purpose;

(c) gas masks;

(d) reviving apparatus;

(e) electric safety lamps and flame safety lamps;

(f) first-aid boxes;

(g) fire extinguishers.

Any apparatus or equipment approved by the Chief Inspector in pursuance of this rule may be approved either absolutely or subject to conditions.

(3) No apparatus or equipment specified in heads (a) to (g) in sub-rule (2) shall be provided or used at any Rescue Station or mine if it is not of a type or standard approved by the Chief Inspector.

(4) Breathing apparatus for use at a mine in rescue work or training shall be obtained as required from the Rescue Station serving the mine.

(5) All breathing apparatus and every flow-meter shall be adjusted and tested periodically, and the purity of oxygen for use in breathing apparatus shall be tested. The tests shall be made in the manner prescribed in Schedule II to these rules.

33. Accidents caused by equipment or apparatus.—(1) A report in writing giving particulars of every accident or dangerous occurrence arising out of the use of any breathing apparatus or smoke helmets or other apparatus serving the same purpose at any mine, shall be sent within 24 hours of the accident or occurrence to the Inspector of the Circle by the manager of the mine.

(2) If any such accident or dangerous occurrence takes place at any Rescue Station, a similar report shall be sent by the Superintendent of the Station.

CHAPTER V.—ORGANISATION AND EQUIPMENT AT MINES.

34. Appointment of men from mines to act with permanent rescue corps.—The manager of every mine situated in the areas to which these rules apply employing 100 or more persons underground on any one day of the preceding twelve months shall appoint on the following scale fully trained men to co-operate with the Rescue Station in rescue work and practice:—

Where the total number of persons employed underground is not more than 500	not less than one trained man.
Where the total number of persons employed underground is more than 500 but not more than 1,000	not less than two trained men.
Where the total number of persons employed underground is more than 1,000 but not more than 1,500	not less than three trained men.
Where the total number of persons employed underground is more than 1,500	not less than four trained men.

35. Disposition of rescue workers.—(1) So far as practicable it shall be arranged that trained men for rescue work at a mine, where there is more than one, shall not all be employed underground at the same time.

(2) Effective arrangements shall be made at every mine for summoning rescue workers immediately their services are required.

36. Telephonic communication.—Every mine situated in the areas to which these rules apply shall be in telephonic communication with the Rescue Station serving the mine:

Provided that if the number of persons employed underground in a mine does not exceed one hundred, the requirements of this rule shall be deemed to have been complied with if the office of the mine is situated within a distance of two miles from a telephone connected to the Rescue Station:

Provided further that the Chief Inspector may exempt any mine, where there is no public telephone system, from the provisions of this rule subject to such conditions as he may impose to ensure other prompt means of communication with the Rescue Station.

37. *Tracings showing ventilation, etc.*—There shall be kept at every mine, other than an open mine, in which the number of persons employed exceeds one hundred, situated in the areas to which these rules apply, in a form suitable for use by rescue workers, a sufficient number of clear and legible tracings, not being less than three, of the workings of the mine up to a date not more than six months previously, showing the ventilation and all principal doors, stoppings and air-crossings, regulators and telephone stations, and distinguishing the intake airways by a different colour from the return airways. The signs used in these tracings shall be those specified in Schedule III to these rules.

38. *Selection of rescue workers.*—(1) The persons to be trained in rescue work shall be carefully selected on the grounds of their coolness, powers of endurance and general suitability for the work, and, in the case of men from mines to be trained to co-operate with permanent rescue corps also on the ground of their knowledge of the mine.

(2) No person shall be trained as a rescue worker unless—

(i) he is certified by a qualified medical practitioner after examination in accordance with Schedule IV to these rules to be free from any organic disease or weakness, and to be fit for undertaking rescue work in a mine;

(ii) he is considered by the Superintendent of the Rescue Station to be suitable for rescue work with breathing apparatus;

(iii) the manager of the mine at which the person is employed certifies in writing that he has had sufficient underground experience for the purpose of rescue work; and

(iv) he is the holder of a certificate of proficiency in first-aid from an organization approved by the Chief Inspector.

39. *Medical examination of rescue workers.*—Every rescue worker so long as he continues to practise shall be re-examined every 12 months by a qualified medical practitioner in accordance with Schedule IV to these rules, and no person shall continue to practise after re-examination unless he is certified to be fit.

40. *Instruction and Practice.*—(1) Every person selected for training in rescue work shall undergo the course of instruction and practices set out in Part I of Schedule V to these rules, until he has been certified as efficient by the Superintendent.

(2) Rescue workers who have been so certified shall undergo practices and receive instruction as set out in Part II of Schedule V to these rules.

(3) All practices required by Schedule V shall last at least two hours except on occasion when, in the opinion of the instructor, it is desirable in the interests of safety to curtail the practice. At some of the practices the breathing apparatus shall be worn continuously for two hours.

(4) A record shall be kept at every Rescue Station of all persons undergoing practices or receiving instruction in rescue work at the station. This record shall contain such particulars as the Chief Inspector may specify from time to time, including the date and character of each practice and the condition of each man after the practice, and if anything abnormal is observed in his condition, whether it is due to a defect of the apparatus or to the man himself.

41. Code of Signals in training.—The code of signals used in training shall be that set out in Schedule VI to these rules.

CHAPTER VI.—CONDUCT OF RESCUE WORK.

42. Duties of Manager or principal official present at surface in emergencies.—On receiving information of any emergency likely to require the services of a rescue corps or brigade, the manager, or, in his absence, the principal official present at the surface shall immediately—

(a) telephone to the Rescue Station; inform the responsible officer on duty at the Station of the character of the occurrence; state whether assistance will be needed from rescue brigades other than the permanent rescue corps, or the brigades attached to the mine;

(b) summon the trained men attached to the mine;

(c) summon medical assistance;

(d) telephone to the Chief Inspector or Inspector;

(e) if necessary, communicate with the Police Station;

Provided that if the mine is not in telephonic communication with the Rescue Station a message shall be sent by a reliable person to the nearest telephone for immediate communication to the Rescue Station and the Chief Inspector or Inspector.

43. Entry into mines for rescue operations.—(1) No person shall be allowed to enter a mine or part of mine which is unsafe for the purpose of engaging in rescue operations unless authorised by the manager, or, in his absence, by the principal official of the mine present at the surface. Only men trained in the use of breathing apparatus shall be permitted to enter the mine for the purpose of using such apparatus.

(2) During the progress of such operations, a person or persons shall be stationed at the entrance of the mine and required to keep a written record of all persons and leaving the mine.

44. Leader.—(1) Every corps or brigade engaged in work with breathing apparatus in a mine shall be under a leader appointed by the Superintendent of a Rescue Station.

(2) The leader shall not engage in manual work. He shall give his attention solely to directing the brigade and to maintaining its safety. He shall examine the roof and supports during the journey in and, if

there is any likelihood of a fall, shall not proceed until the brigade has made the places secure.

45. Numbers employed.—The number of persons in any corps or brigade using breathing apparatus in a mine shall not be less than five or more than six including the leader.

46. Supply of Oxygen.—If the type of apparatus admits of it, at least one person in every corps or brigade shall wear an apparatus with an extension for the supply of oxygen to another person in case of necessity.

47. Instructions to brigade regarding rescue operations.—(1) Prior to sending a brigade underground clear instructions shall be given by the principal official of the mine for the time being on the surface, or by a responsible person deputed by the agent or manager, to the leader of the brigade as to where it shall go and what it shall attempt.

(2) If the Superintendent of the Rescue Station serving the mine is present, the manager or the principal official in charge of the mine shall consult him before issuing such instructions.

(3) Unless the leader is personally thoroughly familiar with the roadways in question, the route to be followed shall be marked on a tracing which the leader shall take with him into the mine.

(4) The leader shall not permit the brigade to go underground until he has received such instructions and, if necessary, such tracing.

(5) The leader shall not deviate from the instructions received by him except when such deviation is necessary for the purpose of saving human life.

48. Fresh air bases.—(1) As soon as possible a base or bases shall be established in fresh air, as near to the irrespirable zone or zones as safety permits. Each such base shall, if possible, be connected by telephone if the base is underground to the surface or if the base is on the surface to the shaft bottom.

(2) Except in cases where the delay involved may result in danger to life, no brigade shall proceed beyond any place where a base is to be established until there have been stationed at such base the following:—

(a) two men, of whom at least one should understand rescue appliances and first-aid;

(b) a spare brigade with rescue apparatus and ready for immediate service;

(c) one or more reviving apparatus, oxygen revivers, stretchers, and birds.

(3) Whenever men are already at work beyond the base, there shall be stationed at the base as soon as possible the persons, spare brigade, apparatus and equipment specified in clauses (a), (b) and (c) of sub-rule (2).

49. Supply of gas-masks and arrangements at surface.—If the manager considers it necessary for safety, persons engaged in dealing with a fire shall be equipped with gas-masks and a rescue brigade equipped with apparatus shall be maintained on the surface in case of necessity.

50. Test of apparatus.—Before proceeding underground the leader shall test, or witness the testing of, all rescue apparatus of the brigade. He shall check the equipment of his party, and, immediately before entering irrespirable air, shall make sure that all apparatus is working properly:

Provided that if the leader and the manager of the mine consider that in order to save life the brigade should proceed at once into the mine, this test may be dispensed with if the apparatus has previously been tested at a Rescue Station.

51. Duties of leader underground.—(1) If the atmosphere is clear, the leader shall, when passing the junction of two or more roads, clearly indicate the route by means of arrow-marks in chalk. If the atmosphere is obscure the leader shall see that a life-line is led in from fresh air, and shall not allow any member of the brigade to move out of reach of that line; or, if that course is impracticable, he shall not proceed until every road branching from the route is fenced across the opening.

(2) The leader shall keep the team together and shall not allow any member of the team to stray.

(3) When using rescue apparatus the leader shall carry a watch, shall read the pressure of the compressed oxygen every 20 minutes or thereabouts, and shall commence the return journey in ample time. In travelling he shall adapt the rate to that of the slowest member. If any member of the corps or brigade is in distress, he shall immediately return to the fresh air base with the whole brigade.

(4) The leader shall not permit any corps or brigade using breathing apparatus in a mine to remain at work for longer than $1\frac{1}{2}$ hours at any one time.

52. Duties of members of rescue brigades.—Every member of a rescue corps or brigade engaged in work with breathing apparatus in a mine shall obey the orders of the leader of the team.

53. Travelling with rescue apparatus.—In travelling with rescue apparatus, each member of the brigade shall keep the place given him when numbering off. If the pace is too quick, or if distress is felt, the member shall at once call attention to the fact.

54. Restriction on second spell of work.—No person shall commence a second or subsequent spell of work in noxious air without being examined and passed by a qualified medical practitioner, if present, or by the Rescue Station Superintendent or other competent person if a qualified practitioner be not present.

55. Code of signals.—Member of rescue corps or brigades shall, in general, use the signals prescribed in Schedule VI to these rules, in communicating to one another.

SCHEDULE I.

[See RULE 32 (1).]

Apparatus and Equipment.

Minimum to be kept at each Rescue Station.—(i) Twenty-four complete suits of breathing apparatus, with means of supplying sufficient oxygen or liquid air to enable such apparatus to be constantly used for two days, and of charging such apparatus.

If the type of apparatus admits of it, one set of apparatus in every four shall be provided with an attachment for supplying oxygen or air to any person found overcome by noxious gases in a mine.

(ii) Four smoke helmets or other apparatus serving the same purpose with not less than 120 feet of tubing for each.

(iii) Twenty electric safety lamps or electric torches of a type approved by the Chief Inspector; and 100 approved flame safety lamps.

(iv) Four oxygen reviving apparatus (not of the forced breathing type) each with a cylinder or cylinders capable of supplying at least 20 cubic feet of oxygen.

(v) Thirty gas-masks of a type approved by the Chief Inspector with two refills for each.

(vi) A first-aid box or boxes.

(vii) Fresh drinking water.

(viii) Cages of small birds for testing for carbon monoxide.

(ix) A motor ambulance or car of adequate capacity and power in constant readiness.

(x) Two portable signalling devices.

SCHEDULE II.

[See RULE 32 (5).]

Breathing Apparatus : Adjustment and tests.

1. In every breathing apparatus which is arranged so as to give a uniform oxygen delivery, the reducing valve shall be so adjusted as to supply not less than two litres of oxygen per minute.

2. Every breathing apparatus shall be thoroughly tested at least once a month in the following manner, and the results of the test giving such particulars as the Chief Inspector by order in writing may specify in this behalf shall be recorded:—

(i) The apparatus shall be carefully examined in respect of its general condition and particular attention shall be given to any delicate and perishable parts.

(ii) The apparatus shall be tested for leakage by completely immersing it in water. For the purpose of this test the apparatus shall be fully distended and if it is a compressed oxygen apparatus the oxygen supply shall be turned on. The apparatus, immersed in water, shall be well shaken and closely examined in every part for leakage by the Superintendent or one of the instructors of the Rescue Station, or by the captain of the rescue brigade. If any leakage is observed the apparatus shall be deemed unsafe for use.

This test may be omitted in respect of the pack of a liquid air apparatus in so far as it would be damaged by immersion.

(iii) The pressure at which any automatic relief valve discharges shall be measured.

3. The following additional tests shall be applied to compressed oxygen apparatus:—

(i) The pressure in the oxygen cylinder shall be measured.

(ii) The rate of delivery of oxygen shall be measured by a flow-meter and if that rate is capable of being adjusted by the wearer of the apparatus, it shall be measured over the whole range of adjustment.

4. No breathing apparatus shall be used underground unless immediately before use it has been tested and found safe in the manner prescribed by paragraph (ii) of clause 2 of this Schedule:

Provided that as a matter of urgency to save life, this test may be omitted and a test for leakage by mouth suction applied instead.

5. The oxygen in every cylinder supplied for use in connection with breathing apparatus shall be analysed before being used in a breathing apparatus, and no oxygen which is found to contain more than two per cent. of impurities shall be used. The results of every analysis giving such particulars as the Chief Inspector may require shall be recorded.

6. Flow-meters shall be tested for accuracy at least once in every six months, and the results of every test giving such particulars as the Chief Inspector may require shall be recorded.

7. Where by this Schedule any particulars are required to be recorded, they shall be recorded forthwith in a book to be kept at the station or mine as the case may be.

SCHEDULE III.

[See RULE 37.]

Code of Signs.

BRICK STONE OR CONCRETE VENTILATION STOPPINGS



FIRE DAMS OR SEALS



WATER DAMS



DOORS



REGULATORS



AIR CROSSINGS



TELEPHONES



UNDERGROUND AMBULANCE STATION IN RED



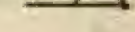
DIRECTION OF AIR CURRENT



INTAKE AIRWAYS—BLUE



RETURN AIRWAYS—RED



SCHEDULE IV.

[See RULES 38 (2) (i) AND 39.]

Medical Examination.

The medical practitioner shall make a thorough examination of each person to be trained or kept in training and shall devote particular attention to the following requirements:—

I. The person must be free from—

- (i) any tendency to fainting or vertigo;
- (ii) any chronic obstruction in the air passages;
- (iii) dyspnoea on light exertion;
- (iv) nystagmus; any marked degree of myopia or any other serious optical defect or disease;
- (v) deafness.

II. The person must be of good physical development and mental alertness, and capable of undergoing hard physical exertion for not less than 15 minutes without being unduly distressed or fatigued.

SCHEDULE V.

(See RULE 40.)

Part I.—Preliminary Course.

The course of instruction and practices shall be as follows:—

A. Instruction in:—

- (i) the general methods of dealing with underground fires and the recovery of mines after fires and explosions;
- (ii) the construction, use, repair, maintenance and testing of the type or types provided of breathing apparatus and of smoke helmets or other apparatus serving the same purpose;
- (iii) the use of methods and apparatus for reviving men;
- (iv) the properties and detection of the noxious and inflammable gases which may be found in mines;
- (v) the taking of gas samples in irrespirable atmospheres;
- (vi) the reading of mine plans;
- (vii) the requirements contained in Chapter VI and Schedule VI to these rules.

B. *Practices*—not less than 12 for each man with breathing apparatus and in addition not less than two for each man with smoke helmets or other apparatus serving the same purpose, in each case under conditions devised to resemble those likely to be encountered in underground operations requiring the use of such apparatus.

(a) The practices shall be carried out as follows:—

(i) *For Permanent Rescue Corps.*—By at least five members jointly.

(ii) *For Men from Mines to act with Rescue Corps.*—Not more than eight nor less than five men shall take part in any practice. If five men from the mine do not attend on any occasion the number may be made up by members of the permanent rescue corps. So far as practicable the same five men shall practise together as one brigade.

(b) The practices with breathing apparatus shall take place in ordinary air and shall progress gradually until practices can be carried out in a hot and irrespirable atmosphere.

(c) The practices with breathing apparatus shall comprise the following operations:—

(i) repeatedly raising and lowering of a weight of 56 lb. to and from a height of six feet by means of a rope and pulley;

(ii) walking continuously at a fair pace for half an hour;

(iii) building and removing temporary stoppings of stone, brick, sandbags, brattice cloth, or other materials, and carrying the materials required for such operations over a distance of at least ten yards;

(iv) removing debris in confined spaces as representing the clearing of a fall of roof;

(v) setting timber or other roof supports;

(vi) carrying, pushing or pulling on a stretcher a live person or dummy body weighing 150 lb. along the length of the gallery;

(vii) the rapid establishment of communication.

Part II.—Practice and Instruction after becoming Efficient.

A. Practices.—

Permanent Rescue Corps.—In addition to regular practices at the Rescue Station, practices with breathing apparatus underground in a mine at least twice in each quarter and at least twelve times in each year.

Men from Mines to act with Permanent Rescue Corps.—Practices with breathing apparatus at least once in each quarter and at least 6 times in each year, of which at least two shall take place in mines, and the remainder in a hot and irrespirable atmosphere.

B. *Instruction.*—Revision of all subjects included in Part I.

SCHEDULE VI.

(See RULES 41 AND 55).

Code of Signals.

Electric Signalling.	Signals.	Signalling between Members of a brigade.	Signals.
"Distress" or "Help Wanted"	One ring	"Distress" or "Help Wanted"	One boot.
(IF NO ANSWER IS GIVEN to a call, "Distress" is to be understood).			
"Not understood" or "Repeat the Message".	Two rings	Half	Two boots.
"No"	Three rings	Retire	Three boots.
"Yes" or "All right" or "All's well".	Four rings	Advance	Four boots.
To "ring up" To "ring off"	Five rings	To call attention	Five boots.

THE COAL MINES PITHEAD BATH RULES, 1946.¹

1. *Short title and Commencement.*—(1) These rules may be called the Coal Mines Pithead Bath Rules, 1946.

²[(2) They extend to the whole of India except the State of Jammu and Kashmir.]

2. *Definitions.*—(a) "Prescribed" means prescribed in writing by the competent authority.

(b) (i) "Category 'A' mine" means a coal mine, the average monthly output of which exceeds 500 tons but does not exceed 2,500 tons.

(ii) "Category 'B' mine" means a coal mine, the average monthly output of which exceeds 2,500 tons but does not exceed 10,000 tons.

(iii) "Category 'C' mine" means a coal mine, the average monthly output of which exceeds 10,000 tons but does not exceed 20,000 tons.

(iv) "Category 'D' mine" means a coal mine, the average monthly output of which exceeds 20,000 tons.

Explanation.—The average monthly output of a mine shall be calculated on the basis of the figures of coal raisings for the previous calendar year.

(c) "Competent Authority" means the Coal Mines Welfare Commissioner or any person authorised in writing by him in this behalf.

(d) "Pithead Bath" means a bathing place at or near a pithead for the use of miners equipped with shower baths, locker rooms and ancillary facilities, such as latrines, urinals, and attendants' rooms.

3. *Provision of Pithead baths.*—(1) The owner of every coal mine shall construct thereat a pithead bath in accordance with plans prepared in conformity with these rules and approved by the competent authority; provided that—

(i) the competent authority may, in exceptional cases, with the concurrence of the Government of India, grant exemption from this requirement to mines the resources of which are not sufficient to enable them to make provision for adequate supply of water or pithead baths;

(ii) the competent authority may grant exemption in respect of any mine, on production of a certificate from the Chief Inspector of Mines that its productive capacity will be exhausted within the next three years, subject to such conditions as may be prescribed requiring the provision of alternative bathing facilities of a temporary character;

(iii) in a mine with a number of openings, the owner may instal more pithead baths than one, provided that the total number of shower baths installed and of latrines and urinals provided shall not be less than is required to conform with sub-rule (2) of this rule and with rule 9;

(iv) if the competent authority is satisfied that no inconvenience will be caused to the miners concerned if a single pithead bath is provided to serve neighbouring mines of category 'A' or 'B' he may authorise the

¹ See Labour Notification No. LMW. 3(5)/460, d/-23-7-46.

² Substituted for former sub-rule (2) by Notification No. S.R.O. 1773, d/- 12.11.51; vide Gazette of India, d/- 12.11.51, Pt. II-Sec. 3, p. 1791.

owners of such mines to provide a single pithead bath to serve such mines, which shall for the purpose of sub-rule (3) be deemed to be a single mine with an average monthly output equal to the combined average monthly output of the individual mines.

(2) Pithead baths as aforesaid shall be constructed within eighteen months of the coming into force of these Rules.

(3) Every pithead bath shall be provided with shower baths on the following scale:—

Category 'A' mine: 10 for men and 4 for women.

Category 'B' mine: 20 for men and 8 for women.

Category 'C' mine: 24 for men and 10 for women.

Category 'D' mine: 40 for men and 16 for women.

4. *Standards of construction for pithead baths.*—Every pithead bath shall conform to the following standards of construction:—

(i) It shall be a well-designed and substantially constructed building with separate bath cubicles and ancillary facilities for men and women, so laid out as to provide proper segregation of the sexes.

(ii) It shall be built in brick-in-cement mortar with a roof of cement concrete or corrugated asbestos cement sheets or tiles, or to conform to any other type of prescribed construction.

(iii) The floors and any interior surfaces of the walls which are liable to become wet shall be cement plastered with special finish, or tiled, or finished in any other prescribed manner so as to provide an impervious and clean surface, provided that the walls need be so treated only up to a height of six feet from floor level.

(iv) Each bath cubicle shall be designed for the use of one person at a time only and shall have a floor area of not less than twelve square feet and shall contain a shower bath with proper fittings for turning the water on and off.

Provided that in the case of pithead bath which was in existence prior to the issue of these rules, the competent authority may permit the continued use of bath cubicles for the use of more than one person if the floor area provided in respect of each shower bath is not less than twelve square feet.

5. *Water for pithead baths.*—(1) Water shall be provided at a pressure equivalent to a head of not less than ten feet at the shower.

(2) When pit water is used, it shall be treated in the prescribed manner before use.

(3) Proper arrangements shall be made to the satisfaction of the competent authority for the drainage or disposal of used bath water.

6. *Lighting.*—Every pithead bath shall remain open at all times of the day and night and the prescribed provision shall be made for lighting.

7. *Attendants.*—(1) At every pithead bath the owner shall appoint a male attendant and a female attendant to supervise the pithead baths intended for men and women separately.

(2) Separate rooms shall be provided close to the bathing cubicles for the use of male and female attendants.

8. Locker rooms.—(1) Separate locker rooms for clean and pit clothes respectively shall be provided at each pithead bath with the prescribed type of locker installed for the use of each man and woman entitled to use the bath: Provided that until such time as the competent authority so directs in writing combined locker and waiting rooms of adequate size may be provided for men and women respectively in lieu of separate locker rooms for clean and pit clothes.

(2) The owner of the mine shall be responsible for the adequate maintenance of locker rooms and shall provide suitable washing arrangements for pit clothes.

(3) Each miner to whom a locker is allotted shall provide his own padlock and key therefor.

(4) The locker-room shall be maintained at all times in a clean and sanitary condition.

9. Sanitary facilities.—(1) Every pithead bath shall be provided with sanitary latrines of the prescribed type on the following scale:—

Category 'A' mine:	....	4 for men and 2 for women.
Category 'B' mine:	....	6 for men and 3 for women.
Category 'C' mine:	....	8 for men and 4 for women.
Category 'D' mine:	....	14 for men and 5 for women.

(2) Every pithead bath shall be provided with urinals of the prescribed type on the scale of one for every fifty persons employed in the mine.

10. Cleanliness.—(1) All bath cubicles, locker rooms, latrines and urinals shall be maintained at all times in a clean and sanitary condition.

(2) The owner of the mine shall make arrangements for the sale at each pithead of soap and mustard oil at a price not exceeding what the owner had paid therefor.

11. Authority empowered to inspect.—The competent authority shall be responsible for the inspection of the pithead baths and for ensuring that the provisions of these rules are complied with.

THE MINES CRECHE RULES, 1946.¹

1. Short title.—²[(1)] These rules may be called the Mines Creche Rules, 1946.

³[(2)] They extend to the whole of India except the State of Jammu and Kashmir.]

¹ See Deptt. of Labour Notification No. LMW. 5(7)/46, d/- 23-7-1946.

² Rule 1 renumbered as sub-rule (1) of that rule by Notification No. S.R.O. 457, d/- 21.3.51; vide Gazette of India, d/- 31.3.51, Pt. II-Sec. 3, p. 537.

³ Substituted for former sub-rule (2) by Notification No. S.R.O. 1777, d/- 12.11.51; vide Gazette of India, d/- 17.11.51, Pt. II-Sec. 3, p. 1991. Former sub-rule (2) was inserted by Notification No. S.R.O. 457, d/- 21.3.51; vide Gazette of India, d/- 31.3.51, Pt. II-Sec. 3, p. 537.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context,—

(a) "Competent authority" means, in respect of coal mines, the the Coal Mines Welfare Commissioner and in respect of other mines, the Chief Inspector of Mines, and includes any person authorised in writing by the said Commissioner or Inspector in this behalf;

(b) "Creche" means a room or rooms with ancillary accommodation reserved for the use of children, under six years of age, of women employed in a mine;

(c) "Medical Officer in charge" means a qualified medical practitioner employed whether on a whole time or part time basis, by the owner of a mine to perform the duties assigned to such officer by these rules.

3. *Provision of creches.*—(a) The owner of every mine shall construct thereat a creche in accordance with plans prepared in conformity with these rules and previously approved by the competent authority.

Provided that where the competent authority is of the opinion that the situation, nature and extent of the workings or other places where women are employed are such as to render compliance with the provisions of the Rules not reasonably practicable, the competent authority may by order in writing exempt any owner of a mine from the provisions of the rule for such period as may be specified in the order:

Provided further that where an exemption is granted under this rule the competent authority may require, within such period as may be specified in the order, a suitable room or rooms with an attendant and other necessary equipments to be provided and maintained at or near any working place or part of the mine.

(b) Such creche shall be constructed within nine months of the date of publication of these rules, provided that where land has to be acquired for the purpose, the competent authority may extend the time limit to a period of not exceeding twelve months from the said date.

(c) If in any case the competent authority is satisfied that by reason of a shortage of building material or of labour the owner of a mine is unable to provide within nine months a creche in accordance with the specifications in these rules, he may approve of the erection of a temporary structure to be replaced by a permanent structure within such time as he may prescribe.

(d) If in any case the competent authority is satisfied that no inconvenience will be caused to the employees concerned, if a single creche is provided to serve neighbouring mines, he may authorise the owners of such mines to provide jointly a single creche and on such condition, as he may prescribe.

[(e). On the production of a certificate from the Chief Inspector of Mines that the productive capacity of a mine will be exhausted within the next three years, the competent authority may on condition that the owner of the mine shall provide a temporary structure to serve the

* Added by Notification No. LW. 51(10)-48. d/- 16.11.49; vide Gazette of India, d/- 19.11.49, Pt. I-Sec. 3, p. 159A.

purpose of a creche and on such other conditions as the competent authority deems fit grant exemption from the construction of a creche in accordance with these rules.]

4. *Standard of creches.*—Every creche shall conform to the following standards of construction:—

(i) It shall be contained in one building, built of brick and mortar, adequately lighted and properly ventilated and affording effective protection from all kinds of weather; “[Provided that with the previous permission in writing of the competent authority, it may be built of any other material which the said authority may approve:]

(ii) It shall be constructed on a suitable site selected by the colliery management with the previous approval of the competent authority;

(iii) The flooring shall be of cement or stone and the ceiling shall not be less than 12 feet high from the door;

(iv) The interior walls shall be lime-washed once a year and the wood work shall be painted or varnished once every three years;

(v) It shall be maintained in a clean and sanitary condition to the satisfaction of the inspection staff;

(vi) Medicines for first aid, and a number of cradles or beds, bed-sheets linen, bedding, feeding bottles, utensils and toys for the use of children shall be maintained for each creche, on a scale approved by the competent authority, provided that if the competent authority is satisfied that the owner of any mine is for good reasons unable to provide an adequate number of articles mentioned in the rule, he may condone the deficiencies;

(vii) The latrines shall be maintained on a scale prescribed by the competent authority and in a sanitary condition to the satisfaction of the inspecting staff and the closed bath room shall be equipped with either a sink or masonry tubs with an adequate quantity of water on a scale approved by the competent authority;

(viii) A supply of drinking water shall be maintained for each creche on a scale approved by the competent authority;

(ix) The creche shall remain open at all times, both by day and by night when women employees are working at the mine and it shall be properly lighted at night.

5. *Use of the creche.*—The use of the creche shall be restricted to children, their attendants, the supervisory staff, the mothers of the children, and no male worker shall be permitted to enter a creche.

6. *Medical arrangements.*—(i) A medical examination of the children attending the creche shall be made every month by a qualified medical practitioner and a record of such examinations shall be maintained.

(a) At intervals prescribed by the competent authority, a medical examination of the nursing mothers attending the creche shall be made by a qualified medical practitioner, if possible a woman, and when the

* Added by *ibid*; *vide ibid*.

examination is conducted by a male doctor it shall be made in the presence of the creche nurse.

(3) The Medical Officer in charge of the mine shall be responsible for the general supervision of the creche,

*[7. *Provision of staff.*—At every creche the owner of the mine shall appoint—

(i) a Creche-in-charge who shall be a woman possessing such qualifications and training as may be approved by the competent authority, and

(ii) inferior staff on a scale approved by the said authority.]

8. *Maintenance of records.*—(a) A register giving particulars of children attending a creche, including their dates of birth, shall be maintained in the form prescribed by the competent authority.

(b) A register of complaints shall be maintained for inspection by the Medical Officer in charge and by the management of the colliery.

9. *Inspection of creches.*—The competent authority shall be responsible for the inspection of creches at mines.

THE MINES MATERNITY BENEFIT ACT, 1941.

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4. Right to obtain leave of absence in pregnancy and after delivery.
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* Substituted for former rule 7 by Notification No. LW. 51(20)-48, d/- 16.11.49; vide Gazette of India, d/- 19.11.49, Pt. I-Sec. 3, p. 1598.

THE MINES MATERNITY BENEFIT ACT, 1941.

ACT NO. XIX, 1941¹

[26th November, 1941.]

An Act to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them.

WHEREAS it is expedient to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them;

It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Mines Maternity Benefit Act, 1941.

(2) It extends to ²[the whole of India ³[except the State of Jammu and Kashmir]].

(3) It shall come into force on such 'date as the Central Government may, by notification in the official Gazette, appoint.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "child" includes a still-born child;

(b) "Chief Inspector", "Inspector", "employed", "mine" and "owner" have the meanings assigned, respectively, to these expressions in section 3 of the Indian Mines Act⁴, 1923 (IV of 1923);

(c) "manager" means the manager of the mine appointed in accordance with the provisions of the Indian Mines Act,⁵ 1923 (IV of 1923);

(d) "maternity benefit" means the payment referred to in section 5;

(e) "prescribed" means prescribed by rules made under this Act.

¹ For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 139.

This Act has been applied to—(1) Partially excluded areas in the State of Orissa, see Orissa Govt. Notification No. 1005-III-C-244-Com., dated 4.3.44; (2) Darjeeling district with effect from 14th June 1945, see the late Bengal Notification No. 2335-Com., dated 8th June 1945.

Several States have enacted laws and made rules thereunder regarding maternity benefits for women employed in factories. See The Bengal Maternity Benefit Act, 1939 (Ben. IV of 1939) and the Bengal Maternity Benefit Rules, 1940; The Bombay Maternity Benefit Act, 1929 (Bom. VII of 1929) and the Bombay Maternity Benefit Rules, 1929; The Central Provinces Maternity Benefit Act, 1930 (C.P. VI of 1930); The Bihar Maternity Benefit Act, (Bih. XXIV of 1947); The Madras Maternity Benefit Act, 1935 (Mad. VI of 1935) and the Madras Maternity Benefit Rules, 1935; The United Provinces Maternity Benefit Act, 1938 (U.P. IV of 1938) and the United Provinces Maternity Benefit Rules, 1936; The Assam Maternity Benefit Act, 1944 (Assam I of 1944) and the Assam Maternity Benefit Rules, 1945; The West Bengal Maternity Benefit (Tea Estates) Act, 1948 (W.B. XXXIII of 1948).

² Subs. by I.A.O., 1950, for "all the Provinces of India" which had been subs. for "the whole of British India" by I.A.O., 1948.

³ Subs. for "except Part B States" by the Part B States (Laws) Act 1 of 1951.

⁴ The 28th December 1942, see Gazette of India, 1942, Pt. II, p. 32.

⁵ See now sec. 2 of the Mines Act 15 of 1952.

⁶ See now sec. 17, *ibid.*

3. Prohibition of employment of, and work by, women during certain period.—(1) No owner or manager of a mine shall knowingly employ a woman and no woman shall engage in employment in any mine during the four weeks following the day on which she is delivered of a child.

(2) No owner or manager of a mine shall employ any woman below ground in the mine—

(a) if he has reason to believe or if she has informed him that she is likely to be delivered of a child within ten weeks;

(b) if she has to the knowledge of the management been delivered of a child within the preceding twenty-six weeks;

(c) during the period of ten weeks following the twenty-six weeks referred to in clause (b)—

(i) for more than four hours in a day unless a *criche* is provided at the mine;

(ii) in any case, for more than four hours at any time:

Provided that where the woman informs the management that the child of which she was delivered has died, the provisions of clause (c) shall not apply after the management has with due diligence verified the correctness of her statement.

4. Right to obtain leave of absence in pregnancy and after delivery.—

(1) If any woman employed in a mine who is pregnant gives notice either orally or in writing in the prescribed form to the manager of the mine that she expects to be delivered of a child within one month from the date of such notice, the manager shall permit her if she so desires to absent herself from work up to the day of her delivery and such absence shall be treated as a period of authorised absence on leave:

Provided that except in the case of a woman employed below ground in the mine the manager may, on undertaking to defray the cost of such examination, require the woman to be examined by a qualified medical practitioner or midwife, and, if the woman refuses to submit to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within one month he may refuse such permission.

(2) If any woman employed below ground in a mine gives notice either orally or in writing in the prescribed form to the manager of the mine that she expects to be delivered of a child within ten weeks from the date of such notice, the manager may, on undertaking to defray the cost of such examination, require the woman to be examined within three days by a qualified medical practitioner or midwife, and shall permit her if she so desires to absent herself from work in any capacity in the mine prior to the said examination, and unless he obtains a certificate that the woman is not pregnant or not likely to be delivered of a child within ten weeks or the woman refuses to submit to such examination, up to the day of her delivery, and such absence shall be treated as a period of authorised absence on leave.

(3) The examination referred to in the proviso to sub-section (1) or in sub-section (2) shall, if the woman so desires be carried out by a woman.

(4) The absence of a woman in the period during which she is entitled to maternity benefit under this Act shall be treated as authorised absence on leave.

5. Right to and liability for payment of maternity benefit.—

(1) Every woman other than a woman to whom the provisions of sub-section (2) apply employed in a mine who has been continuously employed in that mine or in mines belonging to the owner of that mine for a period of not less than six months preceding the date of her delivery shall, if she complies with the conditions imposed by this Act be entitled to receive, and the owner of the mine shall be liable to make to her, in accordance with the provisions of this Act, a payment at the rate of twelve annas a day for every day during the four weeks immediately preceding and including the day of her delivery and for each day of the four weeks following her delivery:

Provided that no such payment shall be made for any day on which she attends work and receives payment therefor during the four weeks preceding her delivery.

(2) Every woman who has worked below ground in a mine or mines of the same owner for not less than ninety days in all during a period not exceeding six months immediately preceding the date on which clause (a) of sub-section (2) of section 3 becomes applicable to her case shall, if she complies with the other conditions imposed by this Act, be entitled to receive and the owner of the mine shall be liable to make to her, in accordance with the provisions of this Act, a payment at the rate of six rupees a week for the ten weeks immediately preceding her delivery and for the six weeks following her delivery.

Explanation.—Periods of casual absence as defined by rules made under section 15 or authorised absence on account of illness or leave shall count as employment in determining whether employment has been continuous.

6. Payment of bonus.—(1) The Central Government may by rules made under section 15 provide that a woman entitled to maternity benefit under this Act shall, if at the time of her delivery she utilized the services of a qualified midwife or other trained person, receive in addition to the maternity benefit due to her a bonus not exceeding in amount three rupees:

Provided that she shall not receive such bonus if at the place chosen by her for her confinement she would have been entitled free of charge to the services of a qualified midwife or other trained person provided by the owner of the mine.

(2) Such rules may further provide for the determination by the State Government of the amount of the bonus, and of the qualifications which shall be possessed by qualified midwives and other trained persons for the purposes of this section.

7. Notice of delivery to be given to manager.—A woman entitled to maternity benefit under this Act, unless she has given the notice referred to in sub-section (1) or sub-section (2) as the case may be, of section 4, shall on being delivered of a child give notice of her delivery in

the prescribed manner to the manager before the expiry of seven days from the date of her delivery, and shall before the expiry of six months from such date furnish proof of the prescribed nature to the manager both of her delivery and of the date of her delivery:

Provided that a woman giving notice under section 4 or this section may therein nominate a person for the purposes of sub-section (2) of section 9.

8. *Payment of maternity benefit.*—(1) Where a woman entitled to maternity benefit has given the notice referred to in sub-section (1) of section 4 and has obtained permission to absent herself from work up to the date of her delivery, the manager shall either at once or within three days pay to her maternity benefit for four weeks in advance.

(1A) Where a woman entitled to maternity benefit has given the notice referred to in sub-section (2) of section 4, the manager shall within three days pay to her maternity benefit for ten weeks in advance, unless, within the said three days as a result of the examination referred to in that sub-section, he obtains a certificate that she is not pregnant or not likely to be delivered of a child within ten weeks or the woman refuses to submit to such examination.

(2) A woman entitled to maternity benefit who has been delivered of a child shall, on furnishing the proof referred to in section 7,—

(a) if she has received an advance payment under sub-section (1) or sub-section (1A), be paid the balance of the maternity benefit due to her at the end of the fourth week from the date of her delivery or within three days of the furnishing of proof, whichever date is later;

(b) if she has received no such advance payment,—

(i) if the proof is furnished, before the end of the fourth week from the date of delivery, be paid at once or within three days so much of the maternity benefit as is then due to her, and be paid the balance at the end of the said fourth week.

(ii) if the proof is furnished after the end of the fourth week from the date of delivery, be paid at once or within three days the whole amount of the maternity benefit due to her.

9. *Disposal of maternity benefit in case of death of women entitled to receive it.*—(1) If a woman entitled to maternity benefit who has received an advance under sub-section (1) or sub-section (1A) of section 8 dies before being delivered of the child, the advance shall not be recoverable.

(2) If a woman entitled to maternity benefit having been delivered of a child dies before payment of the maternity benefit, or, where an advance under sub-section (1) or sub-section (1A) of section 8 has been made, of the balance of the maternity benefit due to her is made, the amount due to her up to the date of her death shall, on the prescribed proof of the birth and date of the birth of the child and of the death and date of death of the woman being furnished at any time before the expiry of six months from the date of delivery, be paid if the child is living to the person who undertakes the care of the child, and if the child is not living to the person nominated by her under the proviso to section

7 or if she has made no such nomination to the legal representative of the deceased woman.

10. Prohibition of dismissal during or on account of absence from work owing to confinement.—(1) When a woman absents herself from work in accordance with sub-section (1) of section 3 or in circumstances under which in accordance with this Act the absence is to be treated as authorised absence on leave, it shall be unlawful for the manager to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.

(2) The dismissal of a woman at any time within six months before she is delivered of a child, if the woman but for such dismissal would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of that maternity benefit if the Chief Inspector is satisfied that her dismissal was without sufficient cause.

11. Power of Chief Inspector or Inspector to direct payments to be made.—(1) Any woman claiming that maternity benefit to which she is entitled under this Act and any person claiming that a payment due under sub-section (2) of section 9 is improperly withheld may make a complaint to the Chief Inspector or any Inspector or any other officer authorised in this behalf by the Central Government.

(2) On receipt of such complaint or on his own motion without any such complaint being made, the Chief Inspector or Inspector or other officer may make inquiry or cause an inquiry to be made, and if satisfied that a payment has been wrongfully withheld may direct the payment to be made in accordance with his orders.

12. Penalty for contravention of Act by a woman.—Any woman who does any work for which she receives payment in cash or kind after she has been permitted under sub-section (1) of section 4 to absent herself from work, or who engages in employment in any mine in contravention of sub-section (1) of section 3, shall be punishable with fine which may extend to ten rupees, and, if she is entitled to maternity benefit under this Act shall forfeit her right to any maternity benefit not already paid to her.

13. Penalty for contravention of Act by owner or manager.—

(1) Any owner or manager of a mine, who contravenes any provision of this Act, for which no express penalty is provided, shall be punishable with fine which may extend to five hundred rupees.

(2) The Court imposing the fine may, if the contravention has resulted in depriving a woman of any maternity benefit due to her, order the whole or any part of the fine when paid to be applied in payment of compensation to the woman for any loss caused to her by the contravention of the provision on account of which the fine has been imposed, and an Appellate Court or the High Court in exercise of its powers of revision may also make such order.

14. Cognizance of cases.—(1) No prosecution under this Act shall be instituted except by or with the sanction of the Chief Inspector or of an officer authorised in this behalf by the Central Government.

(2) No Court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act or any rule made thereunder.

(3) No Court shall take cognizance of an offence punishable under this Act or any rule made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed:

Provided that in computing the said period of six months any time spent in obtaining the sanction required by sub-section (1) shall be excluded.

15. Power of Central Government to make rules.—(1) The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) require the maintenance of registers and records for the purposes of this Act and prescribe the form thereof;

(b) prescribe the form of the notices referred to in section 4 and section 7, and require mines to supply copies thereof to women workers;

(c) regulate the examination of women referred to in section 4, and the grant of the certificates therein referred to;

(d) prescribe the nature of and the method of furnishing the proof referred to in section 7, section 8 and section 9;

(e) regulate the manner of applying for and paying maternity benefit;

(f) assign duties to, and regulate the powers of, the Chief Inspector and Inspectors and the officers authorised by the Central Government referred to in section 11 and sub-section (1) of section 14, for the purposes of this Act.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

16. Abstract of this Act and the rules made thereunder to be exhibited in mines.—(1) The manager of every mine in which women are employed shall cause an abstract in the local Indian language of the provisions of this Act and of the rules made thereunder to be exhibited in the mine in such manner that they may come to the notice of every woman employed in the mine.

(2) For any contravention of the provisions of this section the manager shall be punishable with fine which may extend to one hundred rupees.

17. Power of Central Government to exempt mines from operation of Act.—The Central Government may, by notification in the official Gazette, exempt any mine or class of mines from the operation of this Act.

18. Act binding on [Government].—The provisions of this Act shall be binding on the ¹[Government].

¹ For the Mines Maternity Benefit Rules, 1943, see Notification No. M225, d/- 7-5-43, pub. in Gazette of India, 1943, Pt. I, p. 32; see also post.

² Subs. for "Crown" by L.A.O., 1950.

THE MINES MATERNITY BENEFIT RULES, 1943.¹

1. *Short Title*.—(1) These rules may be called the Mines Maternity Benefit Rules, 1943.

²[(2) They extend to the whole of India except the State of Jammu and Kashmir.]

2. *Definitions*.—In these rules, unless there is any thing repugnant in the subject or context,—

(a) "the Act" means the Mines Maternity Benefit Act, 1941 (XIX of 1941);

(b) "Form" means a form appended to these rules;

(c) "muster roll" means a muster roll maintained under Rule 3;

(d) "Section" means a Section of the Act;

(e) "Inspector" means an Inspector as defined in section 2 of the Act, and includes an officer authorised for the purpose of Section II of sub-section (1) of Section 14 of the Act by the Central Government.

³[(f) "competent authority" means, in respect of a coal mine, the Coal Mines Labour Welfare Commissioner, and in respect of any other mine, the Chief Inspector of Mines.]

3. *Muster Roll*.—(1) Every owner or manager of a mine in which women are employed shall prepare and maintain a muster roll and shall enter the following particulars in such muster roll namely:—

(a) Name of mine;

(b) Name of woman and her father's (or, if married, husband's) name;

(c) Nature of work;

(d) dates with month and year in which she is employed and not employed;

(e) date on which the woman gives notice under section 4;

(f) date of production of a medical certificate under the said section;

(g) date of birth of child;

(h) date on which the woman gives notice, if any, under section 7;

(i) date of production of proof of birth;

(j) date of production, if any, of proof of death of a woman worker;

(k) date with the amount of payment of first instalment of maternity benefit;

(l) date with the amount of payment of subsequent instalment of maternity benefit;

(m) date of payment of bonus, if any under Rule 12;

¹ See Notification No. M 1235, d/- 7-1-43, published in Gazette of India, 1943, Pt. I, p. 32.

² Substituted for original sub-rule (2) by Notification No. S.R.O. 1465, d/- 11.9.51; vide Gazette of India, d/- 22.9.51, Pt. II-Sec. 3, p. 1610.

³ Added by Notification No. S.R.O. 1188, d/- 13.6.53; vide Gazette of India, d/- 20.6.53, Pt. II-Sec. 3, p. 907.

(n) if the woman dies, the name of the person to whom maternity benefit was paid, the amount thereof, and the date of payment;

(o) name of the person nominated by the woman under the proviso to section 7;

(p) remarks column for the use of the Inspector.

(2) All entries in the muster roll shall be made in ink and maintained up to date, and the Inspector may inspect it on the premises at any time during the working time of the mine.

(3) The employer may enter in the muster roll such other particulars as he may wish for any other purpose.

4. *Form of notice under section 4.*—The written notice referred to in section 4 shall be in Form "A".

5. *Form of notice under section 7.*—The notice referred to in section 7 shall be in Form B.

6. *Supply of forms.*—The Manager shall supply to the woman, at her request, free of cost, copies of Forms A and B.

7. *Medical Examination.*—(1) The certificate referred to in section 4 shall be in Form D.

(2) Medical practitioners and midwives referred to in these rules shall have qualifications not less than those qualified to assist at delivery for the purposes of section 6.

8. *Casual absence.*—For purpose of explanation to section 5, absence from employment up to a maximum period of 26 days during the six months preceding the date of delivery shall be treated as casual leave.

9. *Proof.*—The fact that a woman has been confined or is dead shall be proved by the production either of a certificate to that effect from a qualified medical practitioner or a certified copy of an extract from a birth and death register maintained under the provisions of any law.

10. *Payment of Maternity Benefit.*—(1) Payment against a claim of maternity benefit shall be made by the manager to the woman concerned, or to a person nominated by her in writing, or in the case of her death to the person entitled to it under sub-section (2) of section 9.

In case of doubt the amount may be paid by the manager to the *[competent authority] who shall pay it to the person, who, in his opinion, is entitled to receive it.

(2) Whenever the payment referred to in sub-rule (1) is made, a receipt shall be obtained by the manager from the person to whom the payment is made in Form C. Where the amount has been paid to the *[competent authority], the receipt shall be supplied to the manager by the *[competent authority].

11. *Records.*—Records relating to the payment of maternity benefit kept under the provisions of the Act or these rules shall be preserved for a period of two years from the date of their preparation.

*Substituted for "Chief Inspector" by Notification No. S.R.O. 1183, d/- 15.6.53; vide Gazette of India, d/- 20.6.53, Pt. II-Sec. 3, p. 907.

12. Bonus.—(1) Subject to the provisions of sub-section (1) of section 6, a bonus of three rupees shall be paid by the manager to the woman entitled to maternity benefit under the Act.

(2) Application for bonus shall be made by the woman entitled to maternity benefit within four weeks immediately following the day of delivery.

(3) The application referred to in sub-rule (2) shall be accompanied by a certificate from the qualified midwife or other trained person declaring that woman employee utilised the services of the midwife or trained person.

(4) The qualifications to be possessed by qualified midwives and other trained persons for the purposes of section 6 shall be determined by the "[State Government].

13. Duties and Power of the 'competent authority and Inspectors.—

(1) The '[competent authority]' shall have jurisdiction, and shall be responsible for the due administration of the Act and these rules throughout '[the territories to which they extend].

(2) Every Inspector shall be responsible for the due observance of the Act and these rules within the area assigned to him by the '[competent authority].

(3) The '[competent authority]' and Inspectors shall have power, within their respective jurisdiction:—

(a) to require the production of and to examine, such records as are maintained in the mine under the Act or these rules;

(b) to make such enquiries and to require the production of such papers or documents as may be necessary for the purpose of ascertaining whether the provisions of the Act and of these rules have been or are being properly carried out in any mine; provided that he shall not require any owner or manager to answer any question, or give any evidence, tending to criminate himself.

(4) Every notice given under sub-section (1) of section 4 or under section 7 and every receipt for maternity benefit or bonus paid to any person under the provisions of the Act or of these rules shall, on demand, be produced before the '[competent authority]' or an Inspector.

(5) Without prejudice to the generality of sub-rules (1) and (2), the '[competent authority]' or an Inspector shall at each inspection of a mine see:—

(a) Whether due action has been taken on every notice given under section 4 or sub-section (4) or under section 7;

(b) Whether the muster roll prescribed under Rule 3 is correctly maintained;

(c) Whether there have been any cases of dismissal or notice of dismissal in contravention to section 10 since the last inspection;

* See fn. 4 at p. 770, *ante*.

* Substituted for "Provincial Government" by I.A.O., 1950.

* Substituted for "British India" by Notification No. S.R.O. 1128, d/- 15.2.55: vide Gazette of India, d/- 20.6.55, Pt. II-Sec. 3, p. 907.

(d) Whether sections 3 and 8 and sub-section (1) of section 16 have been complied with.

(6) An Inspector may issue orders in writing to the owner or manager asking for the correction of all irregularities against the Act or these rules noticed by him.

14. Penalty.—Any person who contravenes any of the provisions of Rules 3, 6, 10, 11, 12 and 13 shall, on conviction be punishable with fine which may extend to fifty rupees.

15. Annual returns.—(1) The owner of any mine to which the Act applies shall on or before the 21st day of January in each year submit to the Chief Inspector a return in each of the Forms E, G and H giving information as to the particulars specified in respect of the preceding year.

(2) If the owner of a mine to which the Act applies sells, abandons or discontinues the working of the mine, he shall, within one month of the date of sale or abandonment, or four months of the date of discontinuance, as the case may be, submit to the said [competent authority] a further return in each of the said forms in respect of the period between the end of the preceding year and the date of sale, abandonment or discontinuance.

(3) If any person, required by this rule to submit any return fails to do so or submits a return which is incomplete or wrong in materials or in any way calculated to mislead, he shall be liable to a fine which may extend to fifty rupees.

FORM A

(See Rule 4)

Notice under section 4 of the Mines Maternity Benefit Act, 1941.

Name of owner of mine I, wife/daughter
of, employed as at mine, hereby
give notice that I expect to be confined within one month next following from
the date of this notice and that I will absent myself from the mine with effect from

* For the purpose of section 5(2), I hereby nominate
(name and full address of the nominee to be given)
to receive maternity benefit due to me in case of my death.

Signature or thumb impression.

Signature of an attester in case
the woman is not able to sign,
and affixes thumb impression.

Address

To

The Manager,

(Name of mine and full postal address)

FORM B

(See Rule 3)

Notice under section 2 of the Mines Maternity Benefit Act, 1941.

Name of owner of mine I, wife/daughter
of, employed as mine hereby give notice that I gave
birth to a child on the (date)

*Strike out where not applicable.

* See f.n. 4 at p. 770.

* For the purpose of section 9(2), I hereby nominate to receive
(name and full address of the nominee to be given)
maternity benefit due to me in case of my death.
Given this day _____

Signature or thumb impression.

Signature of an attester in case the woman is not
able to sign, and affixes thumb impression.

Address

To

The Manager,

(Name of mine and full postal address)

FORM C

[See Rule 10(2).]

Form of receipt for maternity benefit.

Name of mine I, _____ the undersigned a *woman
employee/the nominee of _____ woman employee/acting on behalf of
woman employee/legal representative of _____
woman employee deceased in _____ (name
of mine) at _____ in _____ district received maternity
benefit under the Mines Maternity Benefit Act, 1941, from the Manager of the
mine referred to above, as detailed below:—

Rs _____, being the first instalment after confinement paid on _____

Rs _____, being the second instalment after confinement paid on _____

Rs _____, being the bonus under section 6 of the Act paid on _____

*My/Her confinement

took place on _____

In consequence I

her NOMINEE, or acting on her behalf

being her legal representative

have received the aforesaid amounts prescribed in section 3* (and section 6) of
the Mines Maternity Benefit Act, 1941.

Signature or thumb impression of

*woman employee

the nominee or the person working on behalf of the woman employee

the legal representative of the woman employee

Signature of an attester in case of the woman is not able to sign and affixes
thumb impression.

FORM D

[See Rule 7(1).]

Certificate referred to in section 4(1) of the Mines Maternity Benefit Act, 1941.

This is to certify that I examined _____ wife/daughter of _____, a
woman employee in _____ mine at _____ in the district of _____
on (date) and **found/can not discover that she is pregnant and is expected to
be delivered of a child within _____ (months and/or days) from
the above mentioned date.

Signature, qualification and
designation of medical
practitioner or midwife.

FORM E

Annual return for the year ending on the 31st December, 19 _____

1. Name of mine.

2. Situation of the Mine—

Mauza.

District.

State.

Nearest Railway station.

*Unnecessary portions to be struck off.

**Strike out when not applicable.

3. Date of opening of the mine.
4. Date of closing, if closed.
5. Postal address of mine.
6. Name of owner.
Postal address of owner.
7. Name of managing agent, if any, postal address of managing agent.
8. Name of agent or representative of owner.
Postal address of representative of owner.
9. Name of manager.
Postal address of manager.
10. (a) Name of medical officer attached to the mine.
(b) Qualification of officer attached to the mine.
(c) Is he resident at the mine?
(d) If a part-time employee, how often does he pay visits to the mine?
11. (a) Is there any hospital at the mine?
(b) If so, how many beds are provided for woman employees?
(c) Is there a lady doctor?
(d) If so, what are her qualifications?
(e) Is there a qualified midwife?
(f) Has any creche been provided?

Signature of owner.

Date 19 .

FORM F

Employment, dismissal, payment of bonus, etc. of women for the year ending on 31st December, 19 .

Place of employment.	Aggregate number of daily attendance during the year of women permanently or temporarily employed.	Number of women who worked for a period of not less than six months (section 3(a)).	Number of women who gave notice under section 4.		Number of cases where free medical examination was offered by the manager (proviso to section 4).	Number of cases where the women refused to submit to such examination (Proviso to section 4).	Number of cases where the manager refused permission under proviso to section 4.
			Orally.	In writing.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
In open workings	—	—	—	—	—	—	—
On the surface	—	—	—	—	—	—	—
Total ..	—	—	—	—	—	—	—

Place of employment.	Number of cases where services of qualified mid-wife or other trained person were offered by the management free of charge (proviso to section 6(1)).	Number of cases where the manager granted permission to a woman to absent herself from work (section 4).	Number of cases where the manager granted permission to a woman to absent herself from work (section 4).	Number of claims for bonus paid (section 6(1)).	Number of claims for bonus rejected.	Number of women dismissed while working.	Number of women who were fined when employed (section (2)).	Amount of fine imposed in each case.	Remarks.
(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	
In open workings	—	—	—	—	—	—	—	—	—
On the surface	—	—	—	—	—	—	—	—	—
Total ..	—	—	—	—	—	—	—	—	—

N.B.—Full particulars of each case and reason for the action taken under headings (8), (13), (14) and (15) should be given in the Appendix below:—

Signature of owner.
Date 19 ..

Appendix FORM G

Details of payment made during the year ending 31st December 19 ..
Name of person to whom paid. Amount paid.

1. Woman employee.
2. Person who undertook the care of the child.
3. Nominee of the woman.
4. Legal representative of the deceased woman.
5. Instalments under section 8(1).
6. Balance of the maternity benefit under section (2).
7. Under section 9(2).
8. Under section 6(1).
9. Number of women workers who absconded after receiving the first instalment of maternity benefit under section 8(1).
10. Cases where claims were contested in a court of law.
11. Results of such case.
12. Remarks.
- 13.

Date of payment.

FORM II

Prosecution during the year ending 31st December 19 . . .

Place of employment of the woman employee.	Number of cases instituted.	Number of cases resulted in conviction.	Remarks.
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In open workings
On the surface

N.B.—Reasons for prosecution should be given in full in the Appendix below:—

Signature of owner.

Date 19 . . .

APPENDIX

THE MINES AND MINERALS (REGULATION AND DEVELOPMENT) ACT, 1948.

(ACT LIII OF 1948)¹

CONTENTS.

SECTIONS.

Preamble.

1. Short title, extent and commencement.
2. Declaration as to expediency of control by Central Government.
3. Definitions.
4. No mining lease to be valid unless it is in accordance with this Act.
5. Power to make rules as respects mining leases.
6. Power to make rules as respects mineral development.

SECTIONS.

7. Power to make rules for modification of existing leases.
8. Delegation.
9. Penalties.
10. Rules to be laid before the Legislature.
11. Power of inspection.
12. Relaxation of rules in special cases.
13. Act to be binding on the Government.
14. Protection of action taken in good faith.

[8th September, 1948]

An Act to provide for the regulation of mines and oilfields and for the development of minerals.

WHEREAS it is expedient in the public interest to provide for the regulation of mines and oilfields and for the development of minerals to the extent hereinafter specified;

It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called The Mines and Minerals (Regulation and Development) Act, 1948.

¹ For Statement of Objects and reasons, see Gazette of India, 1948, Part V, p. 601; and for Report of Select Committee, see Gazette of India, 1948, Part V, p. 141.

²[(2) It extends to the whole of India "except the State of Jammu and Kashmir].]

(3) It shall come into force on such date* as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Declaration as to expediency of control by Central Government.—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation of mines and oilfields and the development of minerals to the extent hereinafter provided.

3. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) the expressions "lessor" and "lessee" respectively include a licensor and licensee;

(b) "mine" means any excavation for the purpose of searching for or obtaining minerals and includes an oil-well;

(c) "minerals" include natural gas and petroleum;

(d) "mining lease" means a lease granted for the purpose of searching for, winning, working, getting, making merchantable, carrying away or disposing of minerals or for the purposes connected therewith, and includes an exploring or a prospecting licence;

(e) "oilfield" means any area where any operation for the purpose of obtaining natural gas and petroleum, crude oil, refined oil, partially refined oil and any of the products of petroleum in a liquid or solid state, is to be or is being carried on.

4. No mining lease to be valid unless it is in accordance with this Act.—(1) No mining lease shall be granted after the commencement of this Act otherwise than in accordance with the rules made under this Act.

(2) Any mining lease granted contrary to the provisions of sub-section (1) shall be void and of no effect.

5. Power to make rules as respects mining leases.—(1) The Central Government may, by notification in the official Gazette, make rules³ for regulating the grant of mining leases or for prohibiting the grant of such leases in respect of any mineral or in any area.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which, the minerals or areas in respect of which and the persons by whom applications for mining leases may be made and the fees to be paid on any such applications;

²Substituted for former sub-sec. (2) by I.A.O., 1950.

³Substituted for "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin" by the Part B States (Laws) Act 3 of 1951.

⁴Came into force on 25-10-49.

⁵For the Mineral Concession Rules, 1949, see Gazette of India, Extraordinary, d/- 10.10.49; and for the Petroleum Concession Rules, 1949, see Notification No. M II-152(17), d/- 27.12.49; see also *post*.

(b) the authority by which, the terms on which, and the conditions subject to which, mining leases may be granted;

(c) the maximum or minimum area and the period for which any mining lease may be granted, and the terms on which leases in respect of contiguous areas may be amalgamated;

(d) the fixing of the maximum and minimum rent payable by a lessee, whether the mine is worked or not.

6. Power to make rules as respects mineral development.—(1) The Central Government may, by notification in the Official Gazette, make rules* for the conservation and development of minerals.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the regulation or prohibition of the mining, quarrying or digging or on the excavating or collecting of minerals from any mine or in any area;

(b) the manner in which and the persons by whom any mineral or any area as respects which the grant of mining leases is prohibited may be developed or worked;

(c) the development of any mineral resources in any area by prescribing or regulating the use of any engines, machinery or other equipment;

(d) the regulation of the drilling, redrilling, deepening, shutting down, plugging and abandoning of oil-wells in an oilfield and for the limitation or prohibition of such operations and for the taking of remedial measures to prevent waste or damage to oil;

(e) the regulation of the methods of producing oil in any oilfield, and the limitation or prohibition of such methods;

(f) the compulsory notification of all new borings and shaft sinkings, and the preservation of boring records, and specimens of cores of all new bore-holes;

(g) the taking of samples from mines and new bore-holes;

(h) the regulation of the arrangements for the storage of minerals and the stocks thereof that may be kept by any person;

(i) the levy and collection of royalties, fees or taxes in respect of mineral mined, quarried, excavated or collected;

(j) the submission by the owners or lessees of mines of special or periodical returns and reports, and the forms in which and the authorities to whom such returns and reports shall be submitted.

7. Power to make rules for modification of existing lease.—(1) The Central Government may, by notification in the official Gazette, make rules for the purpose of modifying or altering the terms and conditions of any mining lease granted prior to the commencement of this Act

* For the Minerals Conservation and Development Rules, 1955, see Notification No. S.R.O. 608, d/- 15.3.55, published in Gazette of India, d/- 19.3.55, Pt. II-Sec. 3, pp. 343-364, as subsequently amended by Notification No. S.R.O. 2018, d/- 8.9.55, vide Gazette of India, d/- 17.9.55, Pt. II-Sec. 3, pp. 1809-1810.

so as to bring such lease into conformity with the rules made under sections 5 and 6:

Provided that any rules so made which provide for the matters mentioned in clause (c) of sub-section (2) shall not come into force until they have been approved, either with or without modifications, by '[the House of the People].

(2) The rules made under sub-section (1) shall provide—

(a) for giving previous notice of the modification or alteration proposed to be made thereunder to the lessee, and when the lessor is not the Central Government, also to the lessor and for affording them an opportunity of showing cause against the proposal;

(b) for the payment of compensation by the party who would be benefitted by the proposed modification or alteration to the party whose rights under the existing lease would thereby be adversely affected; and

(c) for the principles on which, the manner in which and the authority by which the said compensation shall be determined.

8. Delegation.—The Central Government may, by notification in the official Gazette, direct that any power exercisable under this Act shall be exercised, subject to such conditions if any, as may be specified therein by such officer or authority as may be specified in the direction.

9. Penalties.—(1) Any rule made under any of the provisions of this Act may provide that any contravention thereof shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) Whoever, after having been convicted of any offence referred to in sub-section (1), continues to commit such offence shall be punishable each day after the date of the first conviction during which he continues so to offend, with fine which may extend to one hundred rupees.

10. Rules to be laid before the Legislature.—All rules made under any of the provisions of this Act shall be laid before '[the House of the People] as soon as may be after they are made.

11. Power of inspection.—(1) For the purpose of ascertaining the position of the working, actual or prospective, of any mine or abandoned mine or for any other purpose mentioned in this Act or the rules made thereunder, any officer authorised by the Central Government in this behalf shall have the right to—

(a) enter and inspect any mine;

(b) order the production of any document, book, register or record in the possession or power of any person having the control of or connected with, any mine;

(c) examine any person having the control of, or connected with, any mine.

(2) Any officer authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (XIV of 1860).

¹ Substituted for "the Central Legislature" by I.A.O., 1950.

12. *Relaxation of rules in special cases.*—The Central Government may, if satisfied that it is in the public interest so to do, authorise in any case the granting of any mining lease or the working of any mine on the terms and conditions different from those laid down in the rules made under sections 5 and 6.

[13. *Act to be binding on the Government.*—The provisions of this Act shall be binding on the Government].

14. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

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THE MINERAL CONCESSION RULES, 1949

CHAPTER I

GENERAL

1. *Short Title and Commencement.*—(i) These rules may be called the Mineral Concession Rules, 1949.

²[(i-A) These rules extend to the whole of India except the State of Jammu and Kashmir].

(ii) These rules shall come into force on the twenty-fifth day of October, 1949.

2. *Saving of Act XXIX of 1948.*—Nothing in these rules shall affect the provisions of the Atomic Energy Act, 1948.

¹ See Notification No. M-II-155(24)-2, d/- 18.10.49, published in Gazette of India, Extraordinary, d/- 19.10.49.

² Inserted by Notification No. M-II-155 (92), d/- 29.10.1951.

3. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context—

(i) "mining lease" means a lease to mine, quarry, bore, dig and search for, win, work and carry away any mineral specified therein;

(ii) "minor mineral" means building stone, boulder, shingle, gravel, ¹[Chalcedony pebbles] ²[limeshell], kankar, and limestone used for lime burning], murrum, brick-earth, ³[Fuller's earth], ⁴[Bentonite], ordinary clay, ordinary sand, ⁵[road metal, reh-matti, slate and shale when used for building material].

(iii) "private person" means a person other than Government;

(iv) "prospecting license" means a license to search for any mineral specified therein, by quarrying, boring and digging or otherwise;

(v) "railway" and "Railway Administration" have the meanings respectively assigned to them in the Indian Railways Act, 1890.

4. *Exemption.*—These rules shall not apply to minor minerals, the extraction of which shall be regulated by such rules as the ⁶[State] Government may prescribe.

CHAPTER II

CERTIFICATE OF APPROVAL

5. *Grant of certificate of approval.*—A certificate of approval shall be granted only by a State Government.

6. *Persons to whom certificate may be granted.*—A certificate of approval may be granted to any person who, in the opinion of the State Government, is in a position to employ an efficient prospecting agency, or possesses special knowledge of geology or mining:

Provided that, if such person is a Company or firm, it shall be registered or incorporated in India.

7¹[1]. *Application for certificate of approval.*—An application for the grant or renewal of a certificate of approval shall be submitted to the State Government ²[through such officer or authority as it may appoint in this behalf], and ³[every application for the grant of a certificate] shall contain the following particulars:—

(a) (i) If the applicant is an individual, his name, nationality, profession and residence, and

¹ Inserted by Notification No. M. II-152(267)/53, d/- 25.2.56.

² As amended by Corrigendum No. M. II-152(2)/54, d/- 18.5.1954.

³ Inserted by Notification No. M. II-159(271)/53, d/- 31.7.1951.

⁴ Added by Notification No. M. II-152(271)/53, d/- 9.3.1952.

⁵ Added by Notification No. M. II-152(38)/54, d/- 4.8.1954.

⁶ Inserted by Notification No. M. II-152(202), d/- 22.10.1953.

⁷ Words "Province" or "Provincial" substituted wherever they occurred by Notification No. M. II-155(92), d/- 29.10.1951.

¹ and ² Renumbered and Substituted by Notification No. M. II-152(268)/57, d/- 11.5.54.

³ and ⁴ Inserted by Notification No. M. II-155(56), d/- 9.12.1949.

¹[(b) A statement showing the technical qualifications and mining experience of the applicant, and his manager, if any, and such other particulars as may be necessary to satisfy the State Government of the competence of the applicant to hold the certificate.]

²[(ii) If the applicant is a partnership firm, a company or an association or body of individuals, whether incorporated or not, its name, nature and place of business, place of registration or incorporation and except in the case of a company which is not a private company as defined in the Indian Companies Act, 1913 (VII of 1913)³, the names and addresses of the individuals constituting such partnership firm, company, association or body.]

⁴[(2) If there is any omission or misdescription of the ⁵[profession or residence or nationality] in the case of an individual or of the place of business in the case of a partnership firm, a company or an association or body of individuals, whether incorporated or not, such omission or misdescription shall be corrected within a period specified by the State Government or an officer appointed by that Government in this behalf.]

8. *Restricted certificate.*—A certificate of approval shall be valid for the whole of the State and shall cover all minerals except petroleum and natural gas, unless the State Government, with the prior approval of the Central Government, restricts it to any specified mineral or minerals.

9. *Period of certificate of approval.*—(1) A certificate of approval shall have effect from the date on which it is granted and shall expire at midnight on the 31st December next following:

Provided that a certificate issued in the last quarter of the year shall be valid until the 31st December of the year next following.

(2) Only one person shall be named in the certificate and the fee payable for the grant thereof shall be Rs. 100.

10. *Renewal of certificate of approval.*—A certificate of approval may be renewed on payment of a fee of Rs. 50 if the application for renewal is received within 3 months from the date of expiry of the certificate. ⁶[No application for renewal received after the expiry of three months shall be entertained] but an application for a fresh certificate may be made.

11. *Notification of grant of certificate of approval.*—The name and address of the person to whom a certificate of approval has been granted or renewed shall be published by the State Government in the official Gazette.

¹Added by Notification No. S.R.O. 3581, d/- 11.12.54; vide Gazette of India, d/- 18.12.54, Pt. II-Sec. 3, p. 2809.

² and ³See fn. 1, 5 and 6 at p. 782, ante.

⁴Now, the Companies Act I of 1956.

⁵Substituted for "profession and residence" by S.R.O. 1401, d/- 22/23.6.55; vide Gazette of India, d/- 2.7.55, Pt. II-Sec. 3, p. 1140.

⁶Substituted by Notification No. M. II-152(152), d/- 10.7.52.

12. *Holder of a concession need not renew his certificate.*—The expiry of a certificate of approval shall not affect the validity of a license or lease already granted to the holder of such certificate, or the right of the holder of a prospecting license to apply for or obtain a mining lease under these rules.

CHAPTER III

GRANT OF PROSPECTING LICENSE IN RESPECT OF LAND IN WHICH THE MINERALS BELONG TO GOVERNMENT.

13. *Restrictions on grant of prospecting licenses.*—(1) No prospecting license shall be granted to any person unless he holds a certificate of approval from the State Government concerned, ¹[“ ” “ ”].
²[No prospecting license shall be granted to any person unless he produces before the State Government an income-tax clearance certificate from the Income-tax Officer of the District where he resides and carries on business].

³[(1-d) (a) Where such person is a company, it shall be incorporated under the Indian Companies Act, 1913 (VII of 1913)⁴; and where such person is a partnership firm, it shall be registered under the Indian Partnership Act, 1932 (IX of 1932).

(b) Where such person is an individual and is not a citizen of India or where such person is a partnership firm which consists of one or more partners who are not citizens of India, the State Government shall not grant any prospecting licence to such person without the previous approval of the Central Government.]

(2) No prospecting license shall be granted in respect of any such mineral or class of minerals as the Central Government may, by order communicated to the State Government concerned, specify, either throughout, or in such part of the State as may be specified in the order.

(3) No prospecting license for any mineral specified in Schedule IV shall be granted except with the approval of the Central Government.

14. *Application for prospecting license.*—An application for a prospecting license shall, in case of land in which the minerals belong to Government, be made to the State Government concerned ⁵[through such officer or authority as it may appoint in this behalf] and shall contain the following particulars—

(a) (i) If the applicant is an individual, his name, nationality, profession and residence, and

¹The words “and if he is an individual other than a citizen of India, unless the prior approval of the Central Government has been obtained” were omitted by Notification No. S.R.O. 369, d/- 4.2.55; vide Gazette of India, d/- 12.2.55, Pt. II-Sec. 3, p. 313.

²Inserted by Notification No. M-II-152(73), d/- 29.2.52.

³Inserted by Notification No. S.R.O. 369, d/- 4.2.55; vide Gazette of India, d/- 12.2.55, Pt. II-Sec. 3, p. 313.

⁴Now, the Companies Act 1 of 1956.

⁵Inserted by Notification No. M-II-155(36), d/- 9.12.49.

[(ii) If the applicant is a partnership firm, a company or an association or body of individuals, whether incorporated or not, its name, nature and place of business, place of registration or incorporation, and except in the case of a company which is not a private company as defined in the Indian Companies Act, 1913 (VII of 1913), the names and addresses of the individuals constituting such partnership firm, company, association or body.]

(b) The number and date of the notification of the grant or renewal of the certificate of approval of the applicant;

(c) A description, illustrated by a map or plan showing as accurately as possible the situation, boundaries and area of the land in respect of which the license is required;

(d) The period for which the prospecting license is required; and

(e) The mineral or minerals for which the applicant intends to prospect.

*[*Explanation* :—The map or plan referred to in item (c) should give sufficient information for the purpose of identification of the area of the land in respect of which the license is required].

15. Application fee.—The application shall be accompanied by a fee of Rs. 50 for the first square mile and Rs. 10 for each additional square mile or part thereof.

16. Acknowledgment of application.—On receipt of the application the receiving officer shall note thereon the date and time of its receipt and shall give to the applicant an acknowledgment stating the date and time of receipt.

17. State Government may grant or refuse a license.—(1) Subject to the provisions of Rule 13, the State Government may grant or refuse the license.

(2) In case of refusal, intimation of the same shall be given to the applicant in writing and the fee paid under rule 15 shall be refunded.

*[(3) In the event of death of an applicant before grant of a prospecting license, the fee paid under rule 15 shall be refunded to his legal representative.]

*[(4) Where permission has been granted to an applicant for a prospecting licence and he does not take out the licence, the fee paid under rule 15 shall be forfeited to the Government.]

*[**17A. License to be executed within three months.**—Where a license has been granted under rule 17, the formal license shall be

* Substituted by Notification No. M. II-152(268)/55, d/- 11.5.54.

* Now, the Companies Act I of 1956.

* Added by Notification No. M. II-152(103), d/- 29.7.53.

* Inserted by Notification No. M. II-152(239), d/- 28.12.53.

* Inserted by Notification No. S.R.O. 3406, d/- 5.11.54; vide Gazette of India, d/- 15.11.54, Pt. II-Sec. 3, p. 2651.

* Inserted by Notification No. M. II-159(20), d/- 27.2.55.

executed within three months of the date of the order granting the license and if no such formal license is executed within the aforesaid period the order granting the license shall be deemed to have been revoked:

Provided that where ²[the State Government or any officer or authority of the State Government authorised by it in this behalf] is satisfied that the applicant for the license is not responsible for the delay in the execution of the formal license, ³[that Government or as the case may be, that officer or authority] may permit the execution of the formal license after the expiry of the aforesaid period of three months.]

18. (1) Priority.—If more than one application regarding the same land is received, preference shall be given to the application received first, unless the State Government, for any special reason, and with the prior approval of the Central Government decides to the contrary.

⁴[Provided that where more than one application in respect of the same land is received on the same day the State Government, after taking into consideration the matters specified in sub-rule (2) and after obtaining the prior approval of the Central Government may grant the prospecting license to such one of the applicants whom it considers to be the most suitable.]

⁵[Provided further that no application shall be deemed to be incomplete for the purposes of this rule, on account of the omission or misdescription of the ⁶[profession or residence or nationality] in the case of an individual or of the place of business in the case of a partnership firm, a company, or an association or body of individuals, whether incorporated or not, if such omission or misdescription is corrected within a period specified by the State Government or an officer appointed by that Government in this behalf.]

⁷[(2) The matters referred to in the proviso to sub-rule (1) shall be the following namely:—

- (i) experience of the applicants in prospecting;
- (ii) financial soundness and stability of the applicants;
- (iii) special knowledge of geology or mining and the technical staff already employed or to be employed for the work.]

19. Security deposit.—The applicant shall, before the license is issued to him, deposit as security a sum of Rs. 100 for each square mile or part thereof covered by the license, for due observance of the terms and conditions of the license.

20. Register of prospecting licenses.—A register of prospecting licenses shall be maintained by the State Government, specifying:—

- (1) Serial Number;
- (2) Name of the applicant;

² & ³ Substituted by Notification No. M. II-132(15)/54, d/- 24.4.54.

⁴ Added by Notification No. M. II-132(103), d/- 29.7.53.

⁵ Inserted by Notification No. M. II-132(268), d/- 15.5.54.

⁶ Substituted for "profession or residence" by Notification No. S.R.O. 1401, d/- 22.6.55; vide Gazette of India, d/- 27.55, Pt. II-Sec. 3, p. 1140.

⁷ Inserted by Notification No. M. II-132(103), d/- 29.7.53.

- (3) Residence of the applicant;
- (4) Date and number of certificate of approval granted to the applicant;
- (5) Date of application;
- (6) Situation and boundaries of the land;
- (7) Estimated total area;
- (8) The mineral or minerals which the applicant desires to prospect for;
- (9) Date of grant of the license;
- (10) Period for which granted, renewed or extended;
- (11) Application fee paid;
- (12) Prospecting fee and royalty if payable;
- (13) Amount of security deposit;
- (14) Particulars of disposal or refund of security deposit;
- (15) Date of assignment or transfer of the license, if any, and fees paid therefor and the names of the parties thereto;
- (16) Date of application for mining lease (if any);
- ^a[(17) Date of expiry or relinquishment or cancellation;
- (18) Date from which the area is available for regrant.]

21. Inspection of register.—The register shall be open to inspection by any holder of a valid certificate of approval or his duly authorised agent on payment of such fee as the State Government may fix.

[*Explanation:*—The expression 'holder of a valid certificate of approval' includes a person whose certificate has expired but who is eligible to apply for its renewal.]

22. Period of grant or renewal of a prospecting license.—(1) Except for mica, the period for which a prospecting license may be granted shall not exceed two years. If at the end of this period the State Government is satisfied that a longer period is required to enable the licensee to complete the prospecting, it may renew the license for one or more further periods not exceeding one year each, but subject to a total period of four years from the date of commencement of the original license. In the case of mica, the term for which a prospecting license may be granted shall not exceed one year, but the State Government may renew it for a further period not exceeding one year.

(2) If the licensee, before the termination of the period of his license, applies for the grant of a mining lease, the period shall be further extended till the mining lease is granted.

23. Conditions of a prospecting license.—(1) Every prospecting license shall include the following conditions:—

(i) The licensee shall pay such prospecting fee as may be fixed by the State Government, not less than two annas and not more than one rupee per acre of the land covered by the license, for each year or portion of a year of the period for which the license is granted or renewed.

^a Added by Notification No. M. II-152(103), d/- 29-7-53.

^a Added by Notification No. M. II-152(105), d/- 22-6-53.

(ii) In the case of minerals other than gold, silver, precious stones or mica, the license shall not confer upon the licensee a right to win or carry away the minerals for commercial purposes:

Provided that he may carry away—

(a) any quantity within the limits specified in the Second Schedule without any payment; and

(b) any quantity exceeding such limits ¹[but not exceeding twice such limits,] which is incidental to prospecting, on payment of ²[royalty in accordance with Schedule I].

(iii) In case of gold, silver, precious stones or mica the licensee may carry away any quantity won during the course of prospecting on payment of ³[royalty in accordance with Schedule I].

(iv) The licensee may, with the previous sanction of the State Government, transfer his license or any right ⁴[title] or interest therein to a person holding certificate of approval on payment to the State Government of a fee of Rs. 100.

¹[Provided that no prospecting license or any right, title or interest therein in respect of any mineral specified in Schedule IV shall be so transferred except with the previous approval of the Central Government.]

(v) Save in the case of land over which the licensee is granted a mining lease, he shall, within six months next after the determination of the license or the date of abandonment of the undertaking whichever is earlier, securely plug all bores and fill up or fence all excavations in the land covered by the license.

(vi) In case of breach by the licensee or his transferee or assignee of any of the conditions of his license, the State Government may cancel the license, or forfeit, in whole or part, the deposit made by the licensee under rule 19.

(2) A prospecting license may contain such other conditions, as the State Government may deem fit, including the following:—

(i) Time and place of payment of the fee;

(ii) Compensation for damage to land in respect of which license has been granted;

(iii) Indemnity to Government against the claim of a third party for any damage, injury or disturbance caused to him by the licensee;

(iv) Restrictions regarding felling of trees on unoccupied and unreserved Government land;

(v) Restrictions on prospecting operations in an area prohibited by any competent authority;

(vi) Operations in a reserved or protected forest;

(vii) Conditions regarding entry on occupied land;

(viii) Forfeiture of property left after determination of license;

(ix) Power to take possession of plant, machinery and premises in the event of war or emergency.

¹Inserted by Notification No. M. II-152(313), d/- 27-11-53.

²Substituted by Notification No. M. II-152(32)/54, d/- 10-2-56.

³Inserted by Notification No. M. II-159(8), d/- 21-3-51.

⁴Added by Notification No. S.R.O. 25, d/- 21-12-54; vide Gazette of India, d/- 1.1.55, Pt. II-Sec. 3, p. 9.

24. Right to mining lease.—On or before the determination of his license, the licensee shall have a right to a mining lease or leases over the whole or part of the area covered by the license, in accordance with the rules in force governing such leases at the time of the grant of the license:

²[Provided that the State Government may for reasons to be recorded in writing and communicated to the licensee, refuse to grant a mining lease to any such licensee].

25. Report of information obtained by licensee.—The licensee shall, before the deposit made under rule 19 is returned to him, submit confidentially to the State Government a full report of the work done by him, and disclose all information acquired in the course of the operations carried on under the license, regarding the geology and mineral resources of the area covered by the license. ³[If the licensee applies for and is granted a mining lease over the whole or part of the area covered by the prospecting license, the report shall be submitted to the State Government within one year of the date of the lease].

CHAPTER IV

GRANT OF MINING LEASE IN RESPECT OF LAND IN WHICH THE MINERALS BELONG TO GOVERNMENT

26. Restrictions of grant of mining leases.—(1) No mining lease shall be granted to any person unless he holds a certificate of approval from the State Government concerned or is covered by Rule 12; ⁴[" * * *"]. ⁵[No mining lease shall be granted to a person who applies under rule 61, unless he produces before the State Government an income-tax clearance certificate from the Income-tax Officer of the District where he resides and carries on business].

⁶[(1-d) (a) Where such person is a company, it shall be incorporated under the Indian Companies Act, 1913 (VII of 1913)*; and where such person is a partnership firm, it shall be registered under the Partnership Act, 1932 (IX of 1932).

(b) Where such person is an individual and is not a citizen of India or where such person is a partnership firm which consists of one or more partners who are not citizens of India, the State Government shall not grant any mining lease to such person without the previous approval of the Central Government.]

² Added by Notification No. M. II-159(10), dated 7-11-51.

³ Inserted by Notification No. M. II-159(6), d/- 31-7-51.

⁴ The words "and if he is an individual other than a citizen of India, unless the prior approval of the Central Government has been obtained" were omitted by Notification No. S.R.O. 369, d/- 4.2.55; vide Gazette of India, d/- 12.2.55, Pt. II-Sec. 3, p. 113.

⁵ Inserted by Notification No. M. II-152(73), d/- 29-2-52.

⁶ Inserted by Notification No. S.R.O. 369, d/- 4.2.55; vide Gazette of India, d/- 12.2.55, Pt. II-Sec. 3, p. 113.

* Now, the Companies Act I of 1956.

(2) No mining lease shall be granted in respect of any such mineral or class of minerals as the Central Government may, by order communicated to the State Government concerned, specify either throughout, or in such part of the State as may be specified in the order.

(3) No mining lease for any mineral specified in Schedule IV shall be granted except with the prior approval of the Central Government.

[* * * *]

27. Application for mining lease.—An application for a mining lease shall, in case of land in which the minerals belong to Government, be made to the State Government concerned ¹[through such officer or authority as it may appoint in this behalf] and shall contain the following particulars:—

(a) (i) If the applicant is an individual, his name, nationality, profession and residence; and

²[(ii) If the applicant is a partnership firm, a company or an association or body of individuals, whether incorporated or not, its name, nature and place of business, place of registration or incorporation and except in the case of a company which is not a private company as defined in the Indian Companies Act, 1913 (VII of 1913) the names and addresses of the individuals constituting such partnership firm, company, association or body.]

(b) The number and date of the notification of the grant or renewal of certificate of approval of the applicant;

(c) A description, illustrated by a map or plan, showing as accurately as possible the situation, boundaries and area of the land in respect of which the lease is required;

(d) The mineral or minerals which the applicant intends to mine;

(e) The areas and minerals within the jurisdiction of the State Government for which the applicant or any person joint in interest with him already holds a mining lease;

(f) If the applicant holds a prospecting license for the area applied for, the number and date of such license;

(g) The period for which the lease is required; and

(h) The industry, if any, which the applicant proposes to develop, and the location of such industry.

³[*Explanation*:—The map or plan referred to in item (c) should give sufficient information to enable identification of the area in respect of which the lease is required.]

28. Application fee.—(1) The application shall be accompanied by a fee of Rs. 200. If the State Government refuses to grant the lease applied for or if the applicant refuses to accept the lease on account of any special condition imposed therein under sub-rule (3) of rule 41, the fee shall be refunded.

¹Sub-rule (4) of rule 26 was omitted by Notification No. M. II-159(5), d/- 21.5.53.

²Inserted by Notification No. M. II-155(56), d/- 9.12.49.

³Substituted by Notification No. M. II-152(268)/53, d/- 11.5.54.

⁴Added by Notification No. M. II-152(101), dated 29-7-1955.

²[(2) When an application for a mining lease is refused by the State Government, intimation of the refusal shall be given to the applicant in writing.]

³[(3) In the event of death of an applicant before grant of a mining lease, the fee paid under sub-rule (1) shall be refunded to his legal representative];

⁴[Provided that in respect of a mining lease applied for in pursuance of rule 24, the said fee shall not be refunded, unless the State Government refuses to grant the lease to the legal representative or he refuses to accept the lease on account of any special condition imposed therein under sub-rule (3) of rule 41.]

⁵[28A. *Lease to be executed within six months.*—When a mining lease is granted, the formal lease shall be executed within six months of the order sanctioning the lease and if no such lease is executed within the aforesaid period the order sanctioning the lease shall be deemed to have been revoked:

Provided that where ⁶[the State Government or any officer or authority of the State Government authorised by it in this behalf] is satisfied that the applicant for the lease is not responsible for the delay in the execution of the formal lease, ⁷[that Government or as the case may be, that officer or authority] may permit the execution of the formal lease after the expiry of the aforesaid period of six months.]

29. *Deposit for preliminary expenses.*—With the application, applicant shall deposit for meeting the preliminary expenses such sum, not exceeding Rs. 500, as the State Government may determine.

30. *Survey of the area leased.*—When a mining lease is granted by the State Government, arrangements shall be made at the expense of the lessee for the survey and demarcation of the area granted under the lease.

31. *Acknowledgment of application.*—On receipt of the application, the receiving officer shall note thereon the date and time of its receipt, and shall give to the applicant an acknowledgment stating the date and time of receipt.

32. (1) *Priority.*—If more than one application regarding the same land is received, preference shall be given to the application received first, unless the State Government, for any special reason, and with the prior approval of the Central Government decides to the contrary.

⁸[Provided that where more than one application in respect of the same land is received on the same day, the State Government, after taking into consideration the matters specified in sub-rule (2) and after obtaining the prior approval of the Central Government, may grant the

² Inserted by Notification No. M. II-159(6), dated 31-7-1951.

³ Inserted by Notification No. M. II-152(239), dated 28-12-1953.

⁴ Previous to sub-rule (3) added by Notification No. S.R.O. 3271, d/- 13-10-54; vide Gazette of India, d/- 23-10-54, Pt. II-Sec. 3, p. 2490.

⁵ Inserted by Notification No. M. II-159(20), dated 27-2-1953.

⁶ & ⁷ Substituted by Notification No. M. II-152(15)/54, dated 24-3-1954.

⁸ Inserted by Notification No. M. II-152(103), dated 29-7-1953.

mining lease to such one of the applicants whom it considers to be the most suitable.]

⁹[Provided further that no application shall be deemed to be incomplete for the purposes of this rule on account of the omission or misdescription of the number and date of the prospecting licence and of the '[profession or residence or nationality]' in the case of an individual or of the place of business in the case of a partnership firm, a company or an association or body of individuals, whether incorporated or not, if such omission or misdescription is corrected within a period specified by the State Government or an officer appointed by that Government in this behalf.]

²[(2) The matters referred to in the proviso to sub-rule (1) shall be the following namely:—

- (i) experience of the applicants in mining.
- (ii) financial soundness and stability of the applicants.
- (iii) special knowledge of geology or mining and the technical staff already employed or to be employed for the work.]

33. Register of mining leases.—A register of mining leases shall be maintained by the State Government specifying, as far as may be, the particulars specified in rule 20.

34. Inspection of register.—The register shall be open to inspection by any holder of a certificate of approval or a prospecting licence or a mining lease or his duly authorised agent, on payment of such fee as the State Government may fix.

¹[*Explanation*:—The expression 'holder of a certificate of approval' includes a person whose certificate has expired but who is eligible to apply for its renewal].

35. Area of mining lease.—Where the applicant applies direct for a mining lease under rule 61, it may be granted for such area as the State Government deems fit. Where the applicant has a right to a mining lease under rule 24, the lease shall cover the whole or such part of the land covered by the prospecting licence as the applicant may desire but the State Government may, for any special reason, and with the prior approval of the Central Government, reduce the area, or exclude a portion therefrom:

Provided that no lessee, by himself or with any person joint in interest with him, shall hold, in the aggregate, more than 10 square miles under lease in respect of one mineral or related group of minerals within the State:

Provided further that at the time of renewal of the lease, the lessee shall be entitled to surrender any part of the leased area.

¹ Inserted by Notification No. M. II-152(268)/51, dated 11-5-1954.

² Substituted for "profession and residence" by Notification No. S.R.O. 1401, d/- 22/23-6-55; vide Gazette of India, dated 2-7-55, Pt. II-Sec. 3, p. 1140.

³ Inserted by Notification No. M. II-152(107), dated 29-7-1953.

⁴ Added by Notification No. M. II-152(105), dated 22-6-1953.

⁴[*Explanation*.—In the first proviso to this rule, the ten miles area is inclusive of lands taken on lease from private persons and situated within the State.]

36. Security deposit.—The applicant shall, before the lease is issued, deposit as security a sum of Rs. 1,000 in case of metalliferous minerals and Rs. 500 in case of other minerals, for due observance of the terms and conditions of the lease.

37. Transfer of lease.—The lessee may, with the previous sanction of the State Government and subject to the conditions specified in the first proviso to rule 35 and in rule 38, transfer his lease or any right [title] or interest therein, to a person holding a certificate of approval on payment of a fee of Rs. 100 to the State Government.

⁵[Provided that no mining lease or any right, title or interest therein in respect of any mineral specified in Schedule IV shall be so transferred except with the previous approval of the Central Government.]

38. Length and breadth of area leased.—The length of an area held under a mining lease shall not exceed four times its breadth:

Provided that, in the case of coal, the length shall not exceed twice the breadth and the area leased or sub-leased shall not be less than 100 acres :

Provided further that the State Government may in any particular case relax the provisions of this rule.

39. Boundaries below the surface.—The boundaries of the area covered by a mining lease shall run vertically downwards below the surface towards the centre of the earth.

40. Period of lease.—(1) The period for which a mining lease may be granted shall be 30 years in the case of ⁶[coal], iron-ore and bauxite for manufacture of aluminium, and 20 years in the case of any other minerals, unless the applicant himself asks for a shorter period. The lease shall be renewable at the option of the lessee, for one or two periods, each not exceeding the duration of the original lease, in the case of iron-ore and bauxite for manufacture of aluminium, and one period not exceeding the duration of the original lease in the case of other minerals.

(2) When renewal is granted—

(i) royalty and surface rent shall be charged at the rates in force at the time of the renewal; and

(ii) dead rent shall be charged at such rate as the State Government may fix within the limits specified in the Third Schedule in force at the time of the renewals.

⁴Inserted by Notification No. M-11-159(6), dated 21-7-1951.

⁵Inserted by Notification No. M. 11-159(8), dated 21-3-1951.

⁶Added by Notification No. S.R.O. 25, d/- 21.12.54; vide Gazette of India, d/- 1.1.55, Pt. II-Sec. 5, p. 9.

⁷Inserted by Notification No. M. 11-159(7), dated 15-12-1951.

41. Conditions.—(1) Every mining lease shall include the following conditions :—

(i) The lessee shall pay royalty on minerals despatched from the leased area ^{2*}[in accordance with Schedule I] to the Rules:

³[Provided that such rates shall be liable to be revised with effect from the beginning of the year 1955 and thereafter once in every 10 years:]

Provided further that, in the case of a lease executed after the coming into force of these Rules, the lessee shall not be required to pay, during the currency of his lease, a rate of royalty exceeding 1½ times the original rate specified in his lease.]

(ii) If any mineral not specified in the lease is discovered in the leased area he shall not win and dispose of such mineral without obtaining a lease therefor. If he fails to apply for such lease within twelve months from the discovery of the mineral the State Government may give a lease in respect of such mineral to any other person.

(iii) The lessee shall also pay, for every year, except the first year of the lease, such yearly dead rent within the limits specified in the Third Schedule to these Rules as may be fixed by the State Government in the lease; and if the lease permits the working of more than one mineral in the same area, the State Government may charge separate dead rent in respect of each mineral :

Provided that the lessee shall be liable to pay the dead-rent or royalty in respect of each mineral, whichever be higher in amount, but not both.

(iv) The lessee shall also pay, for the surface area used by him for the purposes of the mine, surface rent at such rate, not exceeding the land revenue and cesses assessable on the land, as may be specified by the State Government in the lease.

(v) Unless the State Government for good cause permits otherwise, the lessee shall commence operations within one year from the date of execution of the lease and shall thereafter carry them on in a proper, skilful and workmanlike manner.

Explanation:—For the purposes of this clause, operations shall include the erection of machinery, laying of a tramway or construction of a road in connection with the mine.

(vi) The lesser shall, at his own expense, erect and at all times maintain and keep in good repairs boundary marks and pillars necessary to indicate the demarcation shown in the plan annexed to his lease.

(vii) The lessee shall not carry on, or allow to be carried on, any mining operations at any point within a distance of 50 yards from any railway line, except with the written permission of the Railway Administration concerned, or from any reservoir, canal or other public works, or buildings, except with the previous permission of the State Government. The Railway Administration or the State Government may, in granting such permission, impose such conditions as it may deem fit.

² Substituted by Notification No. M. II-152(12)/54, d/- 10-2-56.

³ Added by Notification No. M. II-159(4), dated 19-5-1951.

(viii) The lessee shall keep correct accounts showing the quantity and other particulars of all minerals obtained and despatched from the mine, the number of persons employed therein, and complete plans of the mine, and shall allow any officer authorised by the Central or the State Government in that behalf to examine at any time any accounts, plans and records maintained by him and shall furnish the Central or State Government with such information and returns as it may prescribe.

(ix) The lessee shall keep accurate records of all trenches, pits and drillings made by him in the course of operations carried on by him under the lease, and shall allow any officer authorized by the State or the Central Government to inspect the same. Such records shall contain the following particulars :—

(a) The subsoil and strata through which such trenches, pits or drillings pass;

(b) Any mineral encountered;

(c) Such other matter as the Central or the State Government may from time to time require.

(x) The lessee shall strengthen and support, to the satisfaction of the Railway Administration concerned, or the State Government, as the case may be, any part of the mine which in its opinion require such strengthening or support for the safety of any Railway, reservoir, canal road or any other public works or structures.

(xi) The lessee shall allow any officer authorised by the Central or the State Government to enter upon any building, excavation or land comprised in the lease for the purpose of inspecting the same.

(xii) The lessee shall, without delay, report to the State Government the discovery, in the area comprised in his lease, of any mineral not specified in the lease.

(xiii) The State Government shall at all times have the right of pre-emption of the minerals won from the land in respect of which the lease has been granted :

Provided that the fair market price prevailing at the time of pre-emption, shall be paid to the lessee for all such minerals.

(xiv) If the lessee, or his transferee or assignee does not allow entry or inspection under clauses (viii), (ix) or (xi), the State Government may cancel the lease and forfeit in whole or part of the deposit made by the lessee under rule 36.

(xv) In case of breach by the lessee or his transferee or assignee of any of the conditions specified in clauses (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), and (x) of this rule the State Government shall give notice in writing to the lessee asking him to remedy the breach within *[sixty] days from the date of the notice, and if the breach is not remedied within such period, the State Government may determine the lease.

(xvi) In case of breach by the lessee or his transferee or assignee of any other condition of this lease, the State Government may require

* Substituted by Notification No. M. II-159(6), dated 21-7-1951.

the lessee to pay a penalty not exceeding an amount equivalent to twice the amount of the annual dead rent.

(2) A mining lease may contain such other conditions, as the State Government may deem necessary, in regard to the following :—

- (i) Time limit, mode and place of payment of rents and royalties;
- (ii) Compensation for damage to the land covered by the lease;
- (iii) Felling of trees;
- (iv) Restriction of surface operations in any area prohibited by any authority;
- (v) Notice by lessee for surface occupation;
- (vi) Providing of proper weighing machines;
- (vii) Facilities to be given by the lessee for working other minerals in the leased area or adjacent areas;
- (viii) Entering and working in a reserved or protected forest;
- (ix) Securing pits and shafts;
- (x) Reporting of accidents;
- (xi) Indemnity to Government against claims of third parties;
- (xii) Delivery of possession over lands and mines on the surrender, expiration or determination of the lease;
- (xiii) Forfeiture of property left after determination of lease;
- (xiv) Power to take possession of plant, machinery, premises and mines in the event of war or emergency.

(3) A mining lease may contain any other special condition, subject to the prior approval of the Central Government.

42. Rights of lessee.—Subject to the conditions mentioned in rule 41, the lessee shall have the right, for the purpose of his mining operations, to—

- (1) work mines;
- (2) sink pits and shafts and construct buildings and roads;
- (3) erect plant and machinery;
- (4) quarry and obtain building and road materials and make bricks;
- (5) use water and take timber;
- (6) use land for stacking purposes;
- (7) do any other thing specified in the lease.

43. Right to determine lease.—The lessee may determine the lease at any time by giving not less than twelve months' notice in writing to the State Government.

CHAPTER V

GRANT OF MINERAL CONCESSIONS BY PRIVATE PERSONS

44. Applicability of this Chapter.—The provisions of this Chapter shall apply to mineral concessions granted by private persons.

45. Certificate of approval essential.—No prospecting license or mining lease shall be granted except to a person holding a certificate of approval from the State Government having jurisdiction over the land in respect of which the concession is required:

Provided that, in the case of an individual who is not a citizen of India, the prior approval of the Central Government shall also be required:

¹Provided further that, no prospecting license or mining lease for any mineral specified in Schedule IV shall be granted except with the prior approval of the Central Government.

²[Provided further that the application for prior approval of the Central Government under this rule shall be made through the State Government concerned by the lessor].

46. Conditions of prospecting license.—A prospecting license granted by a private person shall be subject to the following conditions:—

(i) The period shall not exceed 2 years.

(ii) The licensee shall pay for each year or portion of a year such fee, between two annas and one rupee per acre, as may be agreed upon between the parties.

(iii) In the case of minerals other than gold, silver, precious stones or mica, the license shall not confer upon the licensee a right to win or carry away the minerals for commercial purposes:

Provided that he may carry away—

(a) any quantity within the limit specified in the Second Schedule without any payment; and

(b) any quantity ³[not exceeding twice such limits], which is incidental to prospecting, on payment of ⁴[royalty in accordance with Schedule I].

(iv) In the case of gold, silver, precious stones or mica the licensee may carry away any quantity won during the course of prospecting on payment of ⁵[royalty in accordance with Schedule I].

(v) Such other conditions as may be agreed upon between the parties.

47. Conditions in a mining lease.—A mining lease granted by a private person shall be subject to the following conditions:—

⁶[(i) Except leases in respect of coal, iron ore and bauxite for the manufacture of aluminium, for which the period of lease shall be 30 years, all other leases shall be for a period not exceeding 20 years. All leases shall be renewable at the option of the lessee for one term not exceeding the duration of the original lease.]

⁷[(ii) No lessee, by himself or with any person joint in interest with him, shall hold, in the aggregate, more than 10 square miles under lease in respect of one mineral or related group of minerals within the State, including areas taken on lease from any private person or persons.]

¹The words from "and no mining operation" to "prior approval of the Central Government" were omitted by Notification No. M. II-159(3), d/- 23.2.53.

²Inserted by Notification No. M. II-159(2), dated 2.11.50.

³Substituted for "exceeding such limits" by Notification No. S.R.O. 363, d/- 12.2.55; vide Gazette of India, d/- 12.2.55, Pt. II-Sec. 3, p. 313.

⁴Substituted by Notification No. M. II-151(32)/54, d/- 10.2.56.

⁵Substituted by Notification No. M. II-159(7), dated 15.12.1951.

⁶Substituted by Notification No. M. II-159(6), dated 31.7.1951.

[* * *]

*[(iii)] The length of an area leased shall not exceed four times its breadth.

*[(iv)] the provisions of clauses (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi) and (xv) of sub-rule (1) of rule 41 shall apply to such lease with the modification that in clauses (ii), (iii), (iv) and (xv) for the words "State Government" the word "lessor" shall be substituted.

*[(v)] The lessee may determine the lease at any time by giving not less than 12 months' notice in writing to the lessor.]

*[(vi)] The lease may contain such other conditions as may be agreed upon between the parties.]

48. *Transfer or assignment.*—No prospecting license or mining lease to which the provisions of this Chapter shall apply * [or any right, title or interest in such license or lease] shall be transferred except to a person holding a certificate of approval from the State Government having jurisdiction over the land in respect of which such concession is granted.

* [Provided that no prospecting license or mining lease or any right, title or interest in such license or lease in respect of any mineral specified in Schedule IV shall be transferred except with the previous approval of the Central Government.]

*[49. *Submission of copy of license or lease.*—Every person obtaining a prospecting license or a mining lease from a private person, shall, within three months of the grant of such license or execution of such lease, submit to the State Government, in whose jurisdiction the area or areas covered by such concession is or are situated, a certified copy of the license or the lease.]

*[50. *Communication of transfer or assignment.*—Every transferee or assignee of a prospecting license or a mining lease, or of any right, title or interest therein, shall, within one month of such transfer or assignment, inform the State Government within whose jurisdiction the area or areas covered by such concession is or are situated, of the transfer or assignment and of the terms and conditions of such transfer or assignment.]

*[51. *Prohibition of premium.*—No person in granting or transferring or obtaining a prospecting licence or a mining lease or any right,

* Clause (iii) of rule 47 was omitted and Clause (iv) and (v) were re-numbered as clauses (iii) and (iv) by Notification No. M. II-159(6), d/- 31.7.51.

* & * Added by Notification No. M. II-159(6), dated 31-7-1951.

* Inserted by Notification No. M. II-159(8), dated 21-3-1951.

* Added by Notification No. S.R.O. 25, d/- 21.12.54; vide Gazette of India, d/- 12.35, Pt. II-Sec. 3, p. 9.

* & * Added by Notification No. M. II-159(11), dated 26-10-1951.

* Substituted for former rule 51 by Notification No. S.R.O. 931, d/- 26.4.55; vide Gazette of India, d/- 30.4.55, Pt. II-Sec. 3, p. 778. (Former rule 49 was re-numbered as rule 51 by Notification No. M. II-159(11), d/- 26.10.50).

title or interest in any such licence or lease shall charge or pay any premium in addition to or in lieu of the prospecting fee, surface rent, dead rent or royalty specified in such licence or lease or such proportionate part of such fee, rent or royalty as is payable in respect of such right, title or interest.]

*[51A. *Prohibition of working of mines.*—If the State Government has reason to believe that the grant or transfer of a prospecting licence or a mining lease or of any right, title or interest in such licence or lease is in contravention of any of the provisions of this Chapter, the State Government may, with the approval of the Central Government, direct the party or parties concerned to comply with such directions, and within such time as may be considered necessary or desirable in the circumstances of the case; and in the event of non-compliance, the parties concerned shall not mine, quarry or dig for or excavate or collect any minerals from the mine or area to which the licence or lease relates.]

*52. *Annual returns and statements.*—Every private person granting a prospecting licence or a mining lease shall furnish annually to the State Government such returns and statements, within such period, as may be specified in it.

*[53. *Penalty.*—If any person grants or transfers or obtains a prospecting licence or a mining lease or any right, title or interest therein in contravention of any of the provisions of this Chapter or acts in contravention of the provisions of the rule 51A, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

*[54. *Penalty for failure to furnish returns, etc.*—Should any licensee or lessee or his transferee or assignee fail to furnish the documents or information or returns as prescribed in rules 49 or 50 or in clause (viii) of sub-rule (1) of rule 41 or refuse entry or inspection by an officer authorised by the Central Government or the State Government under clause (viii), (ix) or (xi) of sub-rule (1) of rule 41, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to Rs. 500 or with both.]

*[55. *Offence cognisable upon written complaint.*—No court shall take cognizance of any offence punishable under these Rules, unless upon complaint made in writing by an officer empowered by the State Government in this behalf, within six months of the date on which the said offence is alleged to have been committed.]

*[56. *Status of Court.*—No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under these Rules.]

* Inserted by *ibid*; *vide ibid*.

* Rules 50, 51, 52, 53, 54, 55, 56, 57, 58, 59 and 60 were renumbered as 52, 53, 57, 59, 60, 61, 62, 63, 64 and 65 respectively by Notification No. M. II-159(11), dated 26-10-1951.

* Substituted for former rule 53 by Notification No. S.R.O. 931, d/- 26.4.55; *vide* Gazette of India, d/- 30.4.55, Pt. II-Sec. 3, p. 778.

* Added by Notification No. M. II-159(II), d/- 26.10.51.

* & Added by Notification No. M. II-159(11), d/- 26.10.51.

CHAPTER VI

REVISION

57. Application for review.—(1) Any person aggrieved by an order of a State Government—

(i) refusing to grant a certificate of approval, prospecting licence or mining lease;

²[(i-A) refusing to renew a certificate of approval;]

³[(i-B) refusing to renew a prospecting licence or mining lease.]

(ii) cancelling a prospecting licence or mining lease;

(iii) refusing to permit transfer of a prospecting licence under rule 23 (iv) or a mining lease under rule 37;

may, within two months of the date of such order, apply to the Central Government for reviewing the same.

⁴[(2) An application for review under sub-rule (1) may be admitted after the period of limitation prescribed therein when the applicant satisfies the Central Government that he had sufficient cause⁵ for not making the application within the said period.]

58. Application fee.—⁶[An application for revision under rule ⁷[57] shall be accompanied by a Treasury receipt showing that a fee of Rs. ⁸[100] has been paid into a Government Treasury or in any branch of the Imperial Bank of India doing the treasury business to the credit of the Head ⁹[XXXVI-Miscellaneous Departments—Miscellaneous—Central—Mineral concession fees].

59. Review.—Upon receipt of such application, the Central Government may, if it thinks fit, call for the relevant records and other information from the State Government, and after considering any explanation that may be offered by the State Government, cancel the order of State Government or revise it in such manner as the Central Government may deem just and proper.

60. Finality of order.—The order of the Central Government under rule ¹⁰[59] and subject only to such order, any order of a State Government under these rules, shall be final.

¹ Inserted by Notification No. M. II-159(12), dated 1-2-1952.

² Inserted by Notification No. S.R.O. 1186, d/- 27.5.55; vide Gazette of India, d/- 4.6.55, Pt. II-Sec. 3, p. 1025.

³ Inserted by Notification No. M. II-159(14), dated 12-2-1952.

⁴ Substituted by Notification No. M. II-155(92), dated 3-3-1950.

⁵ Substituted by Notification No. M. II-159(11), dated 26-10-1951.

⁶ Substituted by Notification No. M. II-159(16), dated 10-7-1952.

⁷ Substituted by Notification No. M. II-155(92)-1, dated 1-6-1950.

⁸ Substituted by Notification No. II-159(11), dated 26-10-1951.

CHAPTER VII

MISCELLANEOUS

61. *Direct application for mining lease.*—Any person holding a certificate of approval may, without obtaining a prospecting license, apply for a mining lease.

62. *Application of these rules to all renewals.*—Where a prospecting license or a mining lease granted before the commencement of these rules is renewed after such commencement, these rules shall apply in relation to such renewal as they apply in relation to the renewal of a prospecting license or mining lease granted after such commencement.

¹[62A. *Power to rectify apparent mistake.*—The State Government or the Central Government, as the case may be, may, at any time within six months from the date of an order passed by it under these Rules, on its own motion rectify any mistake or error apparent on the face of the record, and shall, within the like period, rectify any such mistake or error which has been brought to its notice by an applicant for the grant of a mineral concession:

Provided that no such rectification having or purporting to have a prejudicial effect on another applicant for the grant of the same mineral concession shall be made unless the State Government or the Central Government, as the case may be, has given such applicant notice of its intention so to do, and has allowed him a reasonable opportunity of being heard].

²[63. *Forwarding of copies of licences and leases and annual return of licences and leases.*—A copy of each of all the prospecting licences and mining leases granted in a State shall be supplied by the State Government to the Director, Indian Bureau of Mines, as soon as these are granted.

In addition, a consolidated annual return of all the prospecting licences and mining leases granted in a State shall be supplied by the State Government to the Director, Indian Bureau of Mines in such form as may be specified by him, not later than the month of June following the year to which the return relates.]

64. *Forwarding of copies of reports.*—The State Government shall send copies of all reports received by it under rule 25 and clause (xii) of sub-rule (1) of rule 41 to the Director, Indian Bureau of Mines.

¹ Added by Notification No. M. II-159(1)/54, dated 9-4-1954.

² Substituted for former rule 63 by Notification No. S.R.O. 319, d/- 28-2-55; vide Gazette of India, d/- 5-3-55, Pt. II-Sec. 3, p. 474.

^a[65. *Saving.*—Nothing in these rules shall apply to search for minerals at the surface, not involving any substantial disturbance of the soil by the digging of pits, trenches or otherwise.]

Explanation.—The chipping of outcrops with a geological hammer for purpose of taking samples shall not be deemed to be a substantial disturbance of the soil.]

^a[66. *Preference as between applications for prospecting license and mining lease.*—Where applications for both a prospecting license and a mining lease in respect of the same area are received on the same date or different dates within a period of thirty days, the application for a mining lease shall receive preference over the application for a prospecting license if the area was previously held and worked under a mining lease:]

Provided that no such preference shall be given to the applicant for a mining lease if the application for a prospecting license was made earlier than the application for a mining lease by more than thirty days notwithstanding that the area is one which was previously held and worked under a mining lease.]

^a[67. *Availability of areas for regrant to be signified by entry in Standard Register.*—No area which was previously held under a prospecting license or a mining lease shall be treated as available for regrant, unless an entry to that effect has been made in standard register. The date from which the area shall be treated as available for regrant, shall be notified in the official Gazette of the State at least 30 days in advance.]

Explanation.—For the purpose of this rule, the registers required to be maintained under rules 20 and 33 shall be deemed to be Standard Registers.]

^a[68. *Premature applications.*—Applications for grant of a prospecting licence or a mining lease in respect of areas which have been previously held under a prospecting licence or a mining lease but in respect of which there is no entry in the Standard Register as provided in rule 67 shall be deemed to be premature and shall be disposed of by the State Government accordingly. The fee paid shall be refunded.]

¹[69. A partnership firm, a company which is a private company defined in the Indian Companies Act, 1913 (VII of 1913)* or an association or body of individuals, whether incorporated or not, shall intimate promptly to the State Government any change that may take place in the individuals constituting such partnership firm, company, association or body].

^a Added by Notification No. M. II-155(108), dated 29-5-1951.

^{*} Substituted by Notification No. S.R.O. 98, d/- 31-12-54 (vide Gazette of India, d/- 8-1-55, Pt. II-Sec. 3, p. 65) for former rule 66 which had been inserted by Notification No. M. II-152(103), d/- 29-7-53.

¹ & ^a Inserted by Notification No. M. II-152(103), dated 29-7-1951.

¹ Added by Notification No. M. II-152(268)/53, dated 11-3-1954.

^{*} Now, the Companies Act I of 1956.

SCHEDULE 1

ROYALTY

(See rules 23, 41, 46 and 47)

1. Coal— Five per cent. of f.o.r. statutory price subject to a minimum of As 3 per ton.
2. *Mica— Either
 - (a) Crude mica Re. 1 per md.
 - (b) Trimmed mica, all qualities other than heavy stained, dense stained and spotted Rs. 3 per md.
 - (c) Trimmed mica, other than (b) Rs. 1-5-0 per md.
 - (d) Waste and scrap mica As. 2 per md.

Or

5 per cent. of the sale value of mica at the pit's mouth, at the option of the lessor.]
- *[3. Gold, silver, platinum and other precious metals and their ores; copper, lead and zinc ores. To be fixed by the Central Government in each case.]
4. Iron—
 - (a) Used for extraction of iron As. 8 per ton.
 - (b) Used for other purposes Re. 1 per ton.
5. Precious Stones 20 per cent. of the value.
6. Manganese ore—
 - (a) High grade (45 per cent. Mn. and over) Five per cent. of the sale value at the pit's mouth, subject to a minimum of Re. 1 per ton.
 - (b) Low grade (below 45 per cent. Mn.). Five per cent. of the sale value at the pit's mouth, subject to a minimum of As. 8 per ton.
7. Chromite—
 - (a) 45 per cent. Cr_2O_3 and above Five per cent. of the sale value at the pit's mouth, subject to a minimum of Rs. 1-3-0 per ton.
 - (b) Less than 45 per cent. Cr_2O_3 Five per cent. of the sale value at the pit's mouth, subject to a minimum of As. 12 per ton.

[* * * *]
8. Limestone or Dolomite Five per cent. of the sale value at the pit's mouth, subject to a minimum of As. 4 per ton.
- **[9. Oil Shale To be fixed by negotiation between the licensee/lessee and the State Govt.]
- **[10.] All other minerals not specified above. Five per cent. of the sale value at the pit's mouth.

* & * Substituted by Notification No. M. II-159(6), dated 31-7-1951.

* Item 7A was omitted by Notification No. M. II/159(6), dated 31-7-1951.

** Existing item 9 was renumbered as item 10 and before item 10 as so renumbered new item 9 was inserted by Notification No. M II-152(32)/54, dated 10-2-1956.

SCHEDULE II

MAXIMUM QUANTITIES OF ORES AND MINERALS REMOVABLE FREE OF ROYALTY

(See rules 23 and 46)

Class 1.	Auriferous rock and gravel containing no visible gold	2 tons.
Class 2.	Metalliferous ores meant for extracting aluminium, iron and manganese	10 tons
Class 3.	Metalliferous ores meant for extracting antimony, arsenic, bismuth, chromium, copper, lead, nickel, tin, titanium, tungsten and zinc	5 tons.
Class 4.	Metalliferous ores meant for extracting cadmium, cobalt, mercury, molybdenum, silver, tellurium and vanadium	2 tons.
Class 5.	Compound ores containing the metals of class 4 in smaller quantities than those of class 3	5 tons.
Class 6.	Concentrates of the ores enumerated in classes 1 to 5	2 cwt.
Class 7.	Minerals of the "rare-earths" group	5 cwt.
Class 8.	Gypsum, [limestone,] iron pyrites, pyritous shales, and bauxite used for purposes other than aluminium making	5 tons.
Class 9.	Barytes, bitumen, borax, corundum, emery, [grossularite,] felspar, fluor spar and calcite	$\frac{1}{2}$ ton.
Class 10.	Asbestos, graphite, mica and native sulphur	1 cwt.
Class 11.	Sillimanite, kyanite, magnesite, serpentine, steatite, vermiculite, fire-clay, kaolin and other refractory materials	5 tons.
¹⁷ Class 12.	Beryl	20 lbs.]
¹⁸ Class 13.	Coal, lignite and oil shale	30 tons.]

SCHEDULE III

DEAD-RENT

(See rules 40 and 41)

	Per acre	
	Minimum Rs.	Maximum Rs.
1. Coal	1	5
2. Iron ore	1	5
3. Bauxite for extraction of aluminium	1	5
4. Mica	2	8
5. Gold, silver, platinum and other precious metals and precious stones	To be determined according to the circumstances of each case.	
6. All other minerals	5	10

¹⁷Inserted by Notification No. S.R.O. 1145, d/- 23-9-54; vide Gazette of India d/- 2-10-54, Pt. II-Sec. 3, p. 2346.

¹⁸Inserted by Notification No. S.R.O. 1742, d/- 4-8-55; vide Gazette of India, d/- 13-8-55, Pt. II-Sec. 3, p. 1584.

¹⁹Substituted by Notification No. M. II-152(12)/54, dated 10-5-1954.

²⁰Inserted by Notification No. M. II-159(17), dated 12-6-1952.

²¹Inserted by Notification No. M. II-152(32)/54, dated 10-2-1956.

²²The words "for extraction of iron" were omitted by Notification No. M. II-152(151), dated 21-4-1951.

SCHEDULE IV

SPECIFIED MINERALS

(See rules 13, 26 and 45)

Coal; gypsum; ¹[apatite and phosphatic ores, sulphur and its ores] vanadium ores; ²[tungsten ores]; beryl; ilmenite and other titanium ores; monazite and other thorium minerals; pitchblende and other uranium ores; columbite, samarskite and other minerals of the "rare earths" group; ³[zircon; lead, zinc, copper ⁴[and nickel] ores;] ⁵[gold, silver, platinum and other precious metals and their ores; and precious stone].

THE PETROLEUM CONCESSION RULES, 1949¹

CHAPTER I

GENERAL

1. *Short title, extent and commencement.*—(i) These rules may be called the Petroleum Concession Rules, 1949.

(iA) They extend to the whole of India except the State of Jammu and Kashmir.

(ii) They shall come into force on the fifth day of January, 1950.

2. *Saving of Act of 1934.*—Nothing in these rules shall affect the provisions of the Petroleum Act, 1934.

3. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context—

"petroleum", wherever the word occurs, includes also natural gas;

"railway" and "Railway Administration" have the meaning respectively assigned to them in the Indian Railways Act, 1890;

"geophysical survey" means the search by instruments for the presence of suitable underground geological structures and includes the sinking of bore holes for detonating explosives necessary for the purpose, but not the drilling of deep core holes or the sinking of trial shafts, trenches, or other kinds of large and deep excavations connected with prospecting as defined hereinafter;

"prospecting" means the operations necessary to ascertain whether any geological structures favourable for accumulation of oil are present and are capable of yielding petroleum or natural gas in commercially workable quantities. It includes the drilling of deep test wells in such number as would be necessary to verify the geological structure of the oil and gas bearing formations and their productive extent;

¹ Inserted by Notification No. M. II-159(18), dated 25-10-1952.

² Inserted by Notification No. M. II-159(13), dated 31-3-1952.

³ Substituted by Notification No. M. II-155(89), dated 30-3-1950.

⁴ Inserted by Notification No. M. II-159(18), dated 25-10-1952.

⁵ Substituted by Notification No. M. 159(6), dated 31-7-1951.

⁶ See Notification No. M. II-152(17), d/- 27-12-49. The rules as modified up to date by the Central Government by different notifications are given here.

"exploring license" means a license conferring the sole right on the licensee to search, by geological or geophysical surveys, for oil bearing formations and their underground structure and includes trenching, pitting and drilling of core holes for geological information, but not test drilling for petroleum;

"prospecting license" means a license conferring the sole right on the licensee to conduct all or any of the operations included under prospecting;

"mining lease" means a lease conferring the sole right on the lessee to mine, bore, dig, drill, search for, win, work and extract in any quantity, petroleum or natural gas and carry away the crude or refined products as provided in these rules.

CHAPTER II

CERTIFICATE OF APPROVAL FOR PETROLEUM

4. *Grant of Certificate of Approval for Petroleum.*—A Certificate of Approval for Petroleum shall be granted only by the Central Government and shall be valid for the whole of the State.

5. *Persons to whom Certificate may be granted.*—A Certificate of Approval for Petroleum may be granted to any person, who in the opinion of the Central Government, is financially and technically competent to carry on the operations of searching for, drilling and producing petroleum and natural gas in a proper workmanlike manner according to the standards of modern oilfield practice.

6. *Application for Certificate of Approval for Petroleum.*—An application for the grant or renewal of a Certificate of Approval for Petroleum shall be submitted to the Central Government. An application for the grant of such a certificate shall contain the following particulars:—

(a) (i) If the applicant is an individual, his name, nationality, profession and residence; and

(ii) If the applicant is a company, syndicate, partnership or private firm, its name, nature and place of business, and if the place of business is outside India, the name and residence of a member or duly authorised agent resident in India;

(b) a statement showing the previous experience of the applicant in the search for and development of petroleum and such other particulars as may be necessary to satisfy the State Government of the applicant's financial and technical competence to hold the certificate.

7. *Period of Certificate of Approval for Petroleum.*—(1) A Certificate of Approval for Petroleum shall have effect from the date on which it is granted and shall expire at midnight on the 31st December next following:

Provided that a Certificate issued in the last quarter of the year shall be valid until 31st December of the year next following.

(2) Only one person shall be named in the certificate and the fee payable for the grant thereof shall be Rs. 500 (Rupees five hundred).

8. *Renewal of Certificate of Approval for Petroleum.*—A Certificate of Approval for Petroleum may be renewed on payment of a fee of Rs. 250 if the application for renewal is received within three months of the date of expiry of the certificate. After the expiry of three months no renewal shall be granted but an application for a fresh certificate may be made.

9. *Notification of grant of Certificate of Approval for Petroleum.*—The name and address of the person to whom a Certificate of Approval for Petroleum has been granted or renewed shall be published by the Central Government in the Official Gazette.

10. *Holder of a concession need not renew his certificate.*—The expiry of a Certificate of Approval for Petroleum shall not affect the validity of a license or lease already granted to the holder of such a certificate, or the right of the holder of an exploring license to apply for or obtain a prospecting license or a mining lease or the right of the holder of a prospecting license to apply for or obtain a mining lease.

CHAPTER III

EXPLORING LICENSE

11. *Eligibility.*—An exploring license may be granted by the Central Government to any person holding a Certificate of Approval for Petroleum.

12. *Application for exploring license.*—An application for an exploring license shall be made to the State Government concerned and shall contain the following particulars:—

(a) (i) If the applicant is an individual, his name, profession, residence and nationality;

(ii) If the applicant is a company, syndicate, partnership or private firm, its name, nature and place of business; and if the place of business is outside India, the name and residence of a duly authorised agent resident in India;

(b) the number and date of the notification of granting or renewing the Certificate of Approval for Petroleum to the applicant;

(c) whether the applicant proposes to employ any commercial firm for purposes of geophysical survey and if so, the name of the firm, its place of registration or incorporation and its experience in the carrying out of geophysical surveys;

(d) a description, illustrated by a map or plan showing as accurately as possible the situation, boundaries and area of the land in respect of which the license is required;

(e) the period for which the license is required.

13. *Application fee.*—Every application for an exploring license shall be accompanied by a fee of Rs. 1,000 (Rupees one thousand).

14. Acknowledgement of application.—On receipt of the application, the receiving officer shall note thereon the date and hour of its receipt and shall give to the applicant an acknowledgement stating the date and time of receipt.

15. Central Government may grant or refuse a license.—(1) Subject to rule 11, the Central Government may grant or refuse the license.

(2) In case of refusal intimation of the same shall be given to the applicant in writing and the fee paid under rule 13 shall be refunded.

16. Priority.—If more than one application regarding the same land is received, preference shall be given to the application received first, unless the Central Government, for any special reason, decides to the contrary.

17. Security Deposit.—The applicant shall, before the license is issued to him, deposit as security for due observance of the terms and conditions of the license a sum of Rs. 50 per 100 sq. miles, or part thereof of the area covered by the license, subject to a minimum of Rs. 2,000 (Rupees two thousand).

18. Register of exploring licenses.—A register of applications for exploring licenses shall be maintained by the Central Government specifying:—

- (1) Serial Number;
- (2) Name of the applicant;
- (3) Residence of the applicant;
- (4) Date and Number of the Certificate of Approval for Petroleum granted to the applicant;
- (5) Date of application;
- (6) Situation and boundaries of the land;
- (7) Estimated total area;
- (8) Date of grant of the license;
- (9) Period for which granted, renewed or extended;
- (10) Exploring fee payable;
- (11) Amount of security deposit;
- (12) Particulars of disposal or refund of deposit;
- (13) Date of assignment or transfer of the license, if any, and fees paid therefor and the names of the parties thereto.
- (14) Date of application for prospecting license or mining lease (if any).

19. Inspection of Register.—The register shall be open for inspection by any holder of a valid Certificate of Approval for Petroleum or of an exploring or prospecting license or mining lease for petroleum, or his duly authorised agent, on payment of such fee as the Central Government may fix.

20. Period of grant or renewal of a prospecting license.—(1) The term for which an exploring license may be granted shall be two years, but may be shorter if the applicant himself so desires. The licensee shall be entitled to two renewals of one year each, but the Central Government may decline to grant him one or both renewals.

(2) If the licensee, before the termination of the period of his license, applies for the grant of a prospecting license or a mining lease, the period shall be further extended till the prospecting license or the mining lease, as the case may be, is granted.

21. Conditions of an exploring license.—Every exploring license shall in addition to such other conditions as may be found necessary in any particular case, contain the following conditions:—

(i) The licensee shall pay annually, in advance, an exploring fee of Re. 1 per sq. mile of land covered by the license for each year or portion of a year for which the license is granted.

(ii) The license shall not confer upon the licensee any right to win or carry away petroleum;

Provided that for experimental purposes, the licensee may carry away petroleum from the surface seepages, if any, up to a maximum quantity of 1,000 gallons, free of royalty.

(iii) The licensee shall make reasonable satisfaction and pay such compensation as may be assessed by lawful authority in accordance with the law on the subject applying to lands over which the license has been granted, for any damage, injury or disturbance which may be done by him in exercise of the powers granted by the license, and shall indemnify the Government against all claims which may be made by third parties in respect of any such damage, injury or disturbance.

(iv) The licensee shall not, without the permission in writing of the proper authority, cut or injure any tree on unoccupied and unreserved land nor disturb the surface of any road, or enter on any public pleasure ground, burning or burying ground or place held sacred by any class of persons or interfere with any right-of-way, well or tank.

(v) The licensee may, with the previous consent of the Central Government, transfer his license or any right or interest to a person, holding a Certificate of Approval for Petroleum, on payment to the Central Government of a fee of rupees one hundred.

(vi) The licensee shall not be controlled by any Trust, Syndicate, Corporation, firm or person, except with the written consent of the Central Government.

(vii) The licensee shall be at liberty to determine the license or surrender or relinquish any part of the licensed area on giving not less than one month's notice in writing to the Central Government.

(viii) In case of breach of any of the conditions of the license by the licensee or his transferee or assignee, the Central Government may, where it is satisfied that the breach is such as cannot be remedied, on giving thirty days' notice to the licensee or his transferee or assignee, forfeit the whole or part of the deposit made under rule 17 or determine the license. In case the Central Government considers the breach to be of a remediable nature it shall give notice to the licensee, transferee or assignee, as the case may be, requiring him to remedy the breach within thirty days from the date of receipt of the notice, and informing him of the penalty proposed to be inflicted if such remedy is not made within such period;

Provided that if the licensee or his transferee or assignee claims that he has not committed any such breach, or that the penalty proposed therefor is unduly severe, or that the breach is of a remediable nature, he may submit the dispute to arbitration as provided in rule 64, within thirty days from the date of receipt of the notice and if he does so, the Central Government shall not take any action under this clause till the award of the arbitration is announced, and, in case the arbitrators or the umpire find that a breach has been committed and that it is of a remediable nature, the thirty days' time for remedying the same shall run from the date of announcement of the award.

(ix) Save in the case of land over which the licensee has been granted a prospecting license or mining lease, he shall, within three months following the determination of the license or the date of abandonment of the undertaking whichever shall occur first, securely plug any bore holes and fill up or fence any excavations or ditches that he may have made on the land:

Provided that he shall not be required to restore that surface of the land in respect of which full and proper compensation has already been paid under condition (iii) above.

22. Operations within a reserved or protected forest.—All operations conducted under the authority of these rules within a reserved or protected forest shall be subject to such conditions as the Central Government may prescribe.

23. Right to prospecting license.—On or before the determination of his license, the licensee shall have the exclusive right to a prospecting license for petroleum or natural gas over such part of the land covered by the license as he may desire, but subject to the rules in force at the time of grant to him of the exploring license.

24. Reports of information obtained by licensee.—The licensee shall, before the deposit made under rule 17 is returned to him, submit confidentially to the State Government a full report of the work done by him, and disclose all information acquired in the course of the operations carried on under the license, regarding the geology and mineral resources of the area covered by the license.

CHAPTER IV

PROSPECTING LICENSE

25. Eligibility.—A prospecting license may be granted by the Central Government to any person—

- (i) holding a Certificate of Approval for Petroleum; or
- (ii) referred to in rule 10.

26. Application for prospecting license.—An application for a prospecting license shall be made to the State Government concerned and shall contain the following particulars:—

- (a) (i) If the applicant is an individual, his name, nationality, profession and residence; and

(ii) If the applicant is a company, syndicate, partnership or private firm, its name, nature and place of business; and if the place of business is outside India, the name and residence of a member or duly authorised agent resident in India;

(b) the number and date of the notification granting or renewing the Certificate of Approval for Petroleum to the applicant;

(c) a description, illustrated by a map or plan showing as accurately as possible the situation, boundaries, and area of the land in respect of which the license is required;

(d) the period for which the license is required;

(e) whether the applicant holds or held an exploring license over the land for which the prospecting license is required by him, and if so, the particulars thereof.

27. Application fee.—Every application for a prospecting license shall be accompanied by a fee of Rs. 2,000 (Rupees two thousand).

28. Acknowledgement of application.—On receipt of the application the receiving officer shall note thereon the date and time of its receipt and shall give the applicant an acknowledgement stating the date and hour of receipt.

29. Central Government may grant or refuse a license.—(1) Subject to rules 23 and 25, the Central Government may grant or refuse the license.

(2) In case of refusal intimation of the same shall be given to the applicant in writing and the fee paid under rule 27 shall be refunded.

30. Priority.—Subject to rule 23, if more than one application, regarding the same land is received, preference shall be given to the application received first, unless the Central Government, for any special reason, decides to the contrary.

31. Security deposit.—The applicant shall, before the license is issued to him, deposit as security for due observance of the terms and conditions of the license, a sum of Rs. 50 for each square mile or part thereof covered by the license, subject to a minimum of Rs. 3,000 (Rupees five thousand).

32. Register of Prospecting Licenses.—A register of prospecting licenses shall be maintained by the Central Government, specifying:—

1. Serial Number;
2. Name of the applicant;
3. Residence of the applicant;
4. Date and number of Certificate of Approval for Petroleum granted to the applicant;
5. Date of application;
6. Situation and boundaries of the land;
7. Estimated total area;
8. Date of grant of the license;
9. Period for which granted, renewed or extended;
10. Prospecting fee and royalty;

11. Amount of security deposit;

12. Particulars of disposal or refund of security deposit;

13. Date of assignment or transfer of the license, if any, and the fees paid therefor and the names of the parties thereto.

33. Inspection of Register.—The register shall be open for inspection by any holder of a valid Certificate of Approval for Petroleum or an exploring or prospecting license, or a mining lease for petroleum, or his duly authorised agent, on payment of such fee as the Central Government may fix.

34. Period of grant of renewal of a prospecting license.—(1) The period for which a Prospecting License may be granted shall be three years but may be shorter if the applicant himself so desires. The licensee shall be entitled to two renewals of one year each, but the Central Government may, for special reasons, decline to grant one or both the renewals.

(2) The Central Government may, in cases where the licensee holds prospecting licenses over two or more geologically related areas, extend the period referred to in (1) above by such further period as may be considered necessary.

(3) If the licensee, before the termination of the period of his license, applies for the grant of a mining lease, the period shall be further extended till the mining lease is granted.

35. Conditions of Prospecting License.—Every license shall, in addition to such other conditions as may in any particular case be found necessary contain the following conditions:—

(i) The licensee shall pay annually, in advance, such prospecting fee as may be fixed by the Central Government, not less than eight annas and not more than Re. 1 per acre of the land covered by the license, for each year or portion of a year of the term for which the license is granted. When a license is renewed the prospecting fees shall be fixed by the Central Government, subject to a minimum of Re. 1 per acre but not exceeding the following rates:—

Re. 1/4/- for 1st year of renewal;	} per acre.
Re. 1/8/- for 2nd year of renewal;	
Re. 1/12/- for 3rd year of renewal;	
Rs. 2 for 4th and subsequent years of renewal.	

(ii) The license shall not confer upon the licensee any right to win or carry away petroleum for commercial purposes:

Provided that he may carry away—

(a) any quantity upto 4,000 gallons without any payment; and

(b) any quantity exceeding the above which is incidental to prospecting, on payment of royalty at the rates specified in Schedule I.

(iii) The licensee shall make reasonable satisfaction and pay such compensation as may be assessed by the lawful authority in accordance with the law in force on the subject applying to the lands over which the license has been granted, for any damage, injury or distur-

bance which may be done by him in exercise of the powers granted by the license and shall indemnify the Government against all claims which may be made by third parties in respect of any such damage, injury or disturbance.

(iv) The licensee shall not cut or injure any tree on unoccupied and unreserved land without the permission in writing of the proper authority, nor disturb the surface of any road, or enter on any public pleasure ground, burning or burying ground or place held sacred by any class of persons, or interfere with any right-of-way, well or tank.

(v) The licensee may, with the previous consent of the Central Government, transfer his license or any right or interest therein to a person holding a Certificate of Approval for Petroleum on payment to the Central Government of a fee of rupees two hundred.

(vi) The licensee shall not be controlled by any Trust, Syndicate, Corporation, firm or person, except with the written consent of the Central Government.

(vii) The licensee shall be at liberty to determine the license or surrender or relinquish any part of the licensed area on giving not less than three calendar months' notice in writing to the Central Government.

(viii) In case of breach of any of the conditions of the license by the licensee or his transferee or assignee, the Central Government may, where it is satisfied that the breach is such as cannot be remedied, on giving thirty days' notice to the licensee or his transferee or assignee, forfeit the whole or part of the deposit made under rule 3, or determine the license. In case the Central Government considers the breach to be of a remediable nature, it shall give notice to the licensee, or his transferee or assignee, as the case may be, requiring him to remedy the breach within thirty days from the date of receipt of the notice informing him of the penalty proposed to be inflicted if such remedy is not made within such period:

Provided that if the licensee or his transferee or assignee claims that he has not committed any such breach, or that the penalty proposed therefor is unduly severe or that the breach is of a remediable nature, he may submit the dispute to arbitration as provided in rule 64 within thirty days from the date of receipt of the notice, and if he does so, the Central Government shall not take any action under this clause till the award of the arbitration is announced, and in case the arbitrators, or the umpire find that a breach has been committed and that it is of a remediable nature, the thirty days' time for remedying the same shall run from the date of announcement of the award.

(ix) Save in the case of land over which the licensee has been granted a mining lease on or before the determination of his license he shall, within six months following the determination of the license or the date of abandonment of the undertaking, whichever shall occur first, securely plug all bore holes and fill up or fence all excavations that he may have made in the land and shall restore the surface of the land and all buildings thereon which may have been damaged in the course of prospecting:

Provided that the licensee shall not be required to restore the surface of the land or any buildings in respect of which full and proper compensation has already been paid under condition (iii) above.

36. Operations within a reserved or protected forest.—All operations conducted under the authority of these rules within a reserved or protected forest shall be subject to such conditions as the Central Government may prescribe.

37. Right to a mining lease.—On or before the determination of his license, the licensee shall have the exclusive right to a mining lease or leases for petroleum or natural gas over such part of the land covered by the license as he may desire, but subject to the rules in force at the time of grant to him of the exploring license, if any, or the prospecting license.

38. Reports of information obtained by licensee.—The licensee shall, before the deposit made under rule 31 is returned to him or transferred to any other account, submit confidentially to the State Government a full report of the work done by him, and disclose all information acquired in the course of the operations carried on under the license, regarding the geology and mineral resources of the area covered by the license.

CHAPTER V

MINING LEASE

39. Eligibility.—A mining lease may be granted by the Central Government to any person—

- (i) holding a Certificate of Approval for Petroleum;
- (ii) referred to in rule 10.

40. Application for mining lease.—An application for mining lease shall be made to the State Government concerned and shall contain the following particulars,—

(a) (i) If the applicant is an individual, his name, nationality, profession and residence.

(ii) If the applicant is a company, syndicate, private firm or partnership, its nature and place of business and if the place of business is outside India, the name and residence of a member or duly authorised agent resident in India;

(b) The number and date of the notification granting or renewing the Certificate of Approval for Petroleum to the applicant;

(c) A description, illustrated by a map or plan, showing as accurately as possible, the situation, boundaries and area of the land in respect of which the lease is required;

(d) The period for which the lease is required;

(e) Particulars of any other mining lease for petroleum held by the applicant in any other State;

(f) Whether the applicant holds or held an exploring or a prospecting license over land for which the mining lease is required and if so, the particulars thereof.

41. *Application fee.*—The application shall be accompanied by a fee of Rs. 5,000 (Rupees five thousand). If, subject to rule 37, the Central Government refuse to grant the lease applied for, the fee shall be refunded.

42. *Acknowledgement of applications.*—On receipt of the application, the receiving officer shall note thereon the date and time of its receipt and shall give to the applicant an acknowledgement stating the date and time of receipt.

43. *Priority.*—Subject to rule 37, if more than one application regarding the same land is received, preference shall be given to the application received first, unless the Central Government, for any special reason, decides to the contrary.

44. *Area of mining lease.*—A mining lease may be granted for such area as may be desired by the applicant, but subject to the condition that no mining lease shall be granted under these rules so as to cause the total area held under mining leases for petroleum by the lessee himself or with any person joint in interest with him to exceed 1,000 sq. miles within India.

45. *Security Deposit.*—The applicant shall, before the lease is issued, deposit as security a sum of Rs. 20,000 (Rupees twenty thousand) for the due observance of the terms and conditions of the lease.

46. *Deposit for preliminary expenses.*—The applicant shall, before the lease is issued, also deposit for meeting the preliminary expenses, such sum, not exceeding Rs. 2,000 (Rupees two thousand), as the Central Government may determine.

47. *Survey of leased area.*—When a lease is granted by the Central Government, it shall, at the expense of the lessee, arrange for the survey and demarcation of the area granted under the lease.

48. *Register of mining leases.*—A register of applications for mining leases shall be maintained by the Central Government specifying:—

- (1) Serial Number;
- (2) Name of the applicant;
- (3) Residence of the applicant;
- (4) Date and Number of Certificate of Approval for Petroleum granted to the applicant;
- (5) Date of application;
- (6) Situation and boundaries of the land;
- (7) Estimated total area;
- (8) Date of grant of the lease;
- (9) Period for which granted, renewed or extended;
- (10) Dead rent and royalty payable;
- (11) Particulars of the refund or disposal of the deposits made under rules 45 and 46;

(12) Date of assignment or transfer of the lease, if any, and fees paid therefor and the names of the parties thereto.

49. Inspection of Register.—The register shall be open to inspection by any holder of a Certificate of Approval for Petroleum or an exploring or prospecting license or a mining lease for petroleum, or his duly authorised agent, on payment of such fee as the Central Government may fix.

50. Transfer of Lease.—The lessee may, with the previous sanction of the Central Government and subject to the provision of rule 45, transfer his lease or any right or interest therein to a person holding a Certificate of Approval for Petroleum, on payment of a fee of Rs. 500 to the Central Government.

51. Period of lease.—(1) (a) The period for which a mining lease may be granted shall be twenty years, unless the applicant asks for a shorter period.

(b) The lease may be renewed at the option of the lessor for such period or periods as he may deem fit, but any such period shall not exceed the term of the original lease.

(2) When a renewal is granted, royalty, dead rent and surface rent shall be charged at the rates in force at the time of the renewal.

52. Refining of Crude Oil.—The Central Government may require that a mining lease shall contain a condition that any crude petroleum produced by the lease shall not be exported from India until it has been converted into refined products:

Provided that in any case in which it is proved to the satisfaction of the Central Government that any practical or economic difficulty is involved in giving effect to this rule it may pass such order or take such action as it deems fit to remove such difficulty:

Provided further that the lessee shall not at any time be required to refine in India more crude oil than is sufficient to meet India's total indigenous requirements at that time, and the decision of the Central Government as to what quantity is sufficient to meet such requirements shall be final.

53. Piping of Crude Oil.—The lessee shall be free to construct or operate such pipelines as may be necessary for the purpose of carrying away crude oil or natural gas or the products thereof from the leased area to any part of India:

Provided that the pipeline shall not pass through any non-Indian territory except with the written permission of the Central Government.

54. Conditions of mining lease.—Every mining lease shall, in addition to such other conditions as may in any particular case be found necessary, contain the following conditions:—

(i) The lessee shall pay royalty on all crude oil or natural gas won and saved from the leased area, at the rate specified in the schedule to these rules.

(ii) The lessee shall pay, for every year except the first year of the lease, a fixed yearly dead rent at the following rates:—

Rs. 2 per acre for the first 10 sq. miles;

Rs. 3 per acre for the next 40 sq. miles;

Rs. 5 per acre for the next 40 sq. miles;

Rs. 10 per acre for area exceeding the first 100 sq. miles;

Provided that the lessee shall be liable to pay only the dead rent or the royalty, whichever be higher in amount but not both.

(iii) The lessee shall also pay for the surface area actually used by him for the purposes of the operations conducted under the lease surface rent at such rate not exceeding the land revenue and cesses assessable on the land, as may be specified by the State Government in the lease.

(iv) The lessee shall make reasonable satisfaction and pay such compensation, as may be assessed by lawful authority in accordance with the law in force on the subject applying to the lands over which the lease has been granted, for any damage, injury or disturbance which may be done by him in exercise of the powers granted by the lease, and shall indemnify the Government against all claims which may be made by third parties in respect of any such damage, injury or disturbance.

(v) Unless the Central Government for good cause permits otherwise, the lessee shall commence operations within one year from the date of execution of the lease, and shall thereafter carry them on in a proper, skilful and workmanlike manner.

Explanation.—For the purposes of this clause, operations shall include the erection of machinery, laying of a tramway or construction of a road in connection with the oilfield.

(vi) The lessee shall at his own expense, erect and at all times maintain and keep in repair boundary marks and pillars necessary to indicate the demarcation shown in the plan annexed to his lease.

(vii) The lease shall contain such restrictions and conditions with regard to the cutting and use of reserved timber as may be agreed upon between the Central Government and the lessee.

(viii) The lessee shall not, without the previous permission of the proper authority, erect any building or carry on any surface operations upon any public pleasure ground, burning or burying ground or place held sacred by any class of persons, or any village site, or public road, nor shall he interfere with any right-of-way, well or tank.

(ix) The lessee shall not carry on or allow to be carried on any, boring operations at any point within a distance of 50 yards from any railway line, except with the written permission of the Railway Administration concerned, or from any reservoir, canal or other public works or buildings except with the previous permission of the Central Government. The Railway Administration or the Central Government, may, in granting such permission, impose such conditions as it may deem fit.

(x) The lessee shall not intentionally cause any boring to deviate from the vertical in such a way as to cross a vertical plane passing through a boundary of the land covered by the lease or employ any method of drilling which is causing or is likely to cause a boring to deviate to such extent and in such direction as to cross such a vertical plane.

(xi) The lessee shall provide properly constructed and efficient tankmeters and other suitable means for measuring the quantity and volume of petroleum or natural gas produced.

(xii) The lessee shall keep correct accounts showing the quantity and other particulars of petroleum or natural gas obtained and despatched from the oilfield, the number of persons employed therein, and complete plans of the oilfield, and shall allow any officer authorised by the Central Government in that behalf to examine at any time, any accounts, plans and records maintained by him, and shall furnish the Central Government, with such information and returns as it may prescribe.

(xiii) The lessee shall keep accurate records of the drilling, deepening, plugging or abandonment of all bore holes and wells and of any alterations to the casings thereof, and shall allow any officer authorised by the Central Government to inspect the same. Such records shall contain the following particulars:—

(a) The strata and subsoil through which the borehole or well was drilled;

(b) The casing inserted in any borehole or well and any alteration to such casing;

(c) Any petroleum or water bearing strata, coal seams, seams and veins of any other mineral substance encountered;

(d) Such other matter as the Central Government may from time to time require.

(xiv) The Lessee shall strengthen and support to the satisfaction of the Railway Administration concerned, or the Central Government, as the case may be, any part of the mine which in its opinion requires such strengthening or support for the safety of any Railway, reservoir, canal, road or any other public works or structures.

(xv) The lessee shall allow any officer authorised by the Central Government to enter upon any building, excavation or land comprised in the lease for the purpose of inspecting the same.

(xvi) The lessee shall allow reasonable facilities of access to existing or future holders of licenses or leases over any land which is comprised in or adjoins or is reached by the land held by him.

(xvii) The lessee shall, without delay, report to the State Government the discovery in the area comprised in his lease, of any mineral other than petroleum or natural gas.

(xviii) The lessee shall not be controlled by any Trust, Syndicate, Corporation, firm or person, except with the written consent of the State Government.

(xix) (1) In case of a national emergency in respect of petroleum, the Central Government shall, at all time, have the right of pre-emption of the refined petroleum or petroleum products produced from the crude oil extracted from the area held under lease, or of the crude oil where the lessee is permitted to sell, export or dispose of it without refining:

Provided that the fair market price prevailing at the time of pre-emption shall be paid to the lessee, for the petroleum or petroleum products taken in pre-emption.

(2) Notwithstanding, anything contained in rule 64, the Central Government shall be the sole judge as to what constitutes a national emergency in respect of petroleum, and its decision in this respect shall be final.

(xx) Should the royalty or rent payable by the lessee be not paid within two months next after the date fixed in the lease for the payment of the same, the Central Government may enter upon the premises comprised in the lease and distrain any moveable property therein, and may order the sale of the property so distrained or so much of it as will suffice for the satisfaction of the royalty or rent due and all costs and expenses occasioned by the non-payment thereof; and if any royalty or rent remains at any time unpaid for six calendar months next after the date on which it is due, the Central Government may determine the lease and take possession of the premises demised therein:

Provided that if any dispute regarding the royalty or rent shall have been submitted to arbitration the period of two months or of six months, as the case may be shall run from the date of announcement of the award.

(xvi) In case of breach of any of the conditions of the lease by the lessee or his transferee or assignee, the Central Government may, where it is satisfied that the breach is such as cannot be remedied, on giving thirty days' notice to the lessee or his transferee or assignee, forfeit the whole or part of the deposit made under rule 45 or determine the lease. In case the Central Government considers the breach to be of a remediable nature, it shall give notice to the lessee, or his transferee or assignee, as the case may be, requiring him to remedy the breach within sixty days from the date of receipt of the notice and informing him of the penalty proposed to be inflicted if such remedy is not made within such period:

Provided that if the lessee, or his transferee or assignee, claims that he has not committed any such breach, or that the penalty proposed therefor is unduly severe, or that the breach is of a remediable nature, he may submit the dispute to arbitration as provided in rule 64, within thirty days from the date of receipt of the notice, and if he does so, the Central Government shall not take any action under this clause till the award of the arbitration is announced, and, in case the arbitrators or the umpire find that a breach has been committed and that it is of a remediable nature, the sixty days' time for remedying the same shall run from the date of announcement of the award.

(xiii) The lessee shall be at liberty to determine the lease or surrender or relinquish any part of the leased area, on giving not less than twelve calendar months' notice in writing to the Central Government.

55. Operations within a reserved or protected forest.—All operations conducted under the authority of these rules within a reserved or protected forest shall be subject to such conditions as the Central Government may prescribe.

56. Reserved forest.—Every mining lease which includes any portion of a reserved forest shall, if it authorises the lessee to fell timber for the purpose of his operations, specify the terms and conditions upon which he may exercise that authority.

CHAPTER VI

MISCELLANEOUS

57. Direct application for prospecting license or mining lease.—Any person holding a Certificate of Approval for petroleum may apply directly for a prospecting license or a mining lease.

58. Rights of lessee.—An exploring or prospecting license or mining lease for petroleum or natural gas shall contain, consistent with these rules, such covenants regarding the liberties, powers and privileges to be exercised or enjoyed by the licensee or lessee, as may be necessary.

59. Force majeure.—Failure on the part of a licensee or lessee to fulfil any of the terms and conditions of his license or lease shall not give the Central Government any claim against the licensee or lessee or be deemed a breach of the license or lease in so far as such failure arises from *force majeure*, and if through *force majeure* the fulfilment by the licensee or lessee of any of the terms and conditions of his license or lease be delayed, the period of such delay shall be added to the period fixed by the license or lease.

Explanation.—The expression "*force majeure*" includes an Act of God, war, insurrection, riot, civil commotion, tide, storm, tidal wave, flood, lightning, explosion, fire, earthquake, and any other happening which the licensee or lessee could not reasonably prevent or control.

60. Stipulations in case of an alien or company incorporated outside India.—In granting a license, or a lease where a license has not previously been held, to a person who is not a citizen of India, or a Company which is not incorporated in India, the Central Government, may

(i) require the licensee or lessee to associate Indian Capital in the enterprise to such extent as may be agreed upon between him and the Central Government;

(ii) require the licensee or lessee to employ citizens of India at all levels in his organisation to such extent as may be agreed upon between him and the Central Government and to arrange for their training in India and abroad to enable them to occupy those appointments.

61. Application of these rules to all renewals.—Where an exploring or prospecting license or a mining lease granted before the commencement of these rules is renewed after such commencement, these rules shall apply in relation to such renewal as they apply in relation to the renewal of an exploring or prospecting license or a mining lease granted after such commencement.

62. Forwarding of copies of reports.—The State Government shall send copies of all reports received by it under rules 24, 38 and clause xvii of rule 54 to the Director, Indian Bureau of Mines.

63. Fair market price.—For the purpose of clause (xix) of rule 54 'fair market price' at any time shall mean the published price at that time of similar commodities in a substantial free market in any part of the world, with such adjustments as may be necessary.

CHAPTER VII

DISPUTES AND ARBITRATION

64. Arbitration for breaches etc.—(1) In case of any dispute between the Central Government and the licensee or lessee regarding:—

(a) any right claimed by the licensee or lessee under the license or lease;

(b) any breach alleged to have been committed by the licensee or lessee of any covenant contained in his license or lease, or any penalty proposed to be inflicted therefor;

(c) the amount of royalty or rent payable under the license or lease; or

(d) the amount of compensation payable to the lessee in the event of acquisition of his property; or

(e) any other matter or thing connected with the license or lease; the matter in dispute shall be settled by two arbitrators, one to be nominated by the Central Government and the other by the licensee or lessee; or in case of disagreement between the arbitrators, by an umpire appointed by the arbitrators by writing under their hands before proceeding with the arbitration, and the decision of such arbitrators or umpire shall be final.

(2) The arbitrators or the umpire will also determine which party shall bear the expenses of the arbitration or whether the expenditure shall be divided between the two parties and if so, in what proportion.

65. Arbitration for pre-emption.—In case of any dispute regarding the price to be paid for petroleum or natural gas taken in pre-emption by the Central Government, the matter in dispute shall be settled by two arbitrators, one to be nominated by the Central Government and the other by the lessee; or, in case of disagreement between the arbitrators, by an umpire appointed by the arbitrators by writing under their hands before proceeding with the arbitration and the decision of such arbitrators or umpire shall be final. The arbitrators or the umpire will

also determine which party shall bear the expenses of the arbitration or whether the expenditure shall be divided between the two parties, and if so, in what proportion.

=[* * * *]

SCHEDULE

ROYALTY

Petroleum.—10 per cent on the well-head value, convertible at the option of the Central Government to an equivalent charge to be fixed annually, subject to a minimum of annas eight per 40 Imperial gallons, excluding water and foreign substance.

Natural gas.—If sold by the licensee or lessee or if utilised by him for any other purpose than the production of natural petroleum or natural gas—10 per cent on the well-head value.

Gasoline from gas.—On gas converted into gasoline the well-head value shall be calculated on the volume of gasoline manufactured: it shall be deemed to be equivalent to the selling value of the gasoline less the cost of manufacture, and the royalty shall be subject to a minimum of annas eight per 40 Imperial gallons of gasoline manufactured:

Provided that the 10 per cent royalty rate shall be convertible at the option of the Central Government to an equivalent charge per 40 Imperial gallons of gasoline (not being less than annas eight) or per 1,000 cubic feet of gas, as the case may be, to be fixed annually.

Explanation.—"Well-head value" shall be the published price of crude oil of similar type and quality in a substantial free market in any part of the world, where such market may exist, with suitable adjustments to bring the price back to the well-head value of that crude.

Oil shale.—To be fixed by negotiation between the lessee and the Central Government.

THE MINIMUM WAGES ACT, 1948

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THE SCHEDULE.

THE MINIMUM WAGES ACT, 1948

ACT NO. XI OF 1948¹

[15th March, 1948]

An Act to provide for fixing minimum rates of wages in certain employments.

WHEREAS it is expedient to provide for fixing minimum rates of wages in certain employments;

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Minimum Wages Act, 1948.

(2) It extends to ²[the whole of India ³[except the State of Jammu and Kashmir]].

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,

(a) "adult," "adolescent" and "child" have the meanings respectively assigned to them in section 2 of the ⁴[Factories Act, 1948 (LXIII of 1948)];

(b) "appropriate Government" means—

(i) in relation to any scheduled employment carried on by or under the authority of the Central Government, ⁵[by a railway administration], or in relation to a mine, oilfield or major port, or any corporation established by ⁶[a Central Act], the Central Government, and;

¹ For Statement of Objects and Reasons, see Gazette of India, 1946, Pt. V, p. 224 and for Report of the Select Committee, see *ibid.*, 1948, Pt. V, pp. 55 to 58.

² Subs. for "all the Provinces of India" by L.A.O., 1950.

³ Subs. for "except Part B States" by the Part B States (Laws) Act 3 of 1947.

⁴ Subs. by the Minimum Wages (Am.) Act 26 of 1954.

⁵ Subs. for "by the Federal Railway Authority, or a railway company operating a Federal railway" by L.A.O., 1950.

⁶ Subs. for "an Act of the Central Legislature" by *ibid.*

(ii) in relation to any other scheduled employment, the '[State Government];

(c) "competent authority" means the authority appointed by the appropriate Government by notification in its official Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments specified in such notification;

(d) "cost of living index number" in relation to employees in any scheduled employment in respect of which minimum rates of wages have been fixed, means the index number ascertained and declared by the competent authority by notification in the official Gazette to be the cost of living index number applicable to employees in such employment;

(e) "employer" means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in sub-section (3) of section 26,—

(i) in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under '[clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (LXIII of 1948)], as manager of the factory;

(ii) in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such Government for the supervision and control of employees or where no person or authority is so appointed, the head of the Department;

(iii) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iv) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner for the supervision and control of the employees or for the payment of wages;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "scheduled employment" means an employment specified in the schedule, or any process or branch of work forming part of such employment;

(h) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include—

¹ Subs. for "Provincial Government" by L.A.O. 1950.

² Subs. by Act 26 of 1951.

(i) the value of—

(a) any house-accommodation, supply of light, water, medical attendance, or

(b) any other amenity or any service excluded by general or special order of the appropriate Government;

(ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any Scheme of social insurance;

(iii) any travelling allowance or the value of any travelling concession;

(iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(e) any gratuity payable on discharge;

(i) "employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of the Armed Forces of the ^o[Union].

3. Fixing of minimum rates of wages.—¹[(1) The appropriate Government shall, in the manner hereinafter provided,—

(a) fix the minimum rates of wages payable to employees employed—

(i) in an employment specified in Part I of the Schedule at the commencement of this Act, before the 31st day of December, 1954;

(ii) in an employment specified in Part II of the Schedule at the commencement of this Act, before the 31st day of December, 1954;

Provided that the appropriate Government may, instead of fixing minimum rates of wages under this sub-clause for the whole State, fix such rates for a part of the State or for any specified class or classes of such employment in the whole State or part thereof; and

(iii) in an employment added to Part I or Part II of the Schedule by notification under section 27, before the expiry of one year from the date of the notification;

(b) review at such intervals as it may think fit, such intervals not exceeding five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary.

(1A) Notwithstanding anything contained in sub-section (1), the appropriate Government may refrain from fixing minimum rates of wages in respect of any scheduled employment in which there are in the

¹ Subs. for "Crown" by L.A.O., 1950

² Subs. by Act 26 of 1954.

whole State less than one thousand employees engaged in such employment, but if at any time, whether before or after the expiry of any time limit specified in sub-section (1), the appropriate Government comes to a finding after such inquiry as it may make or cause to be made in this behalf that the number of employees in any scheduled employment in respect of which it has refrained from fixing minimum rates of wages has risen to one thousand or more, it shall fix minimum rates of wages payable to employees in such employment within one year from the date on which it comes to such finding.]

(2) The appropriate Government may fix,—

(a) a minimum rate of wages for time work (hereinafter referred to as "a minimum time rate");

(b) a minimum rate of wages for piece work (hereinafter referred to as "a minimum piece rate");

(c) a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as "a guaranteed time rate");

(d) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as "overtime rate").

(3) In fixing or revising minimum rates of wages under this section,—

(a) different minimum rates of wages may be fixed for—

(i) different scheduled employments;

(ii) different classes of work in the same scheduled employment;

(iii) adults, adolescents, children and apprentices;

(iv) different localities;

(b) minimum rates of wages may be fixed by the hour, by the day or by any larger wage period as may be prescribed;

Provided that where any wage-periods have been fixed under section 4 of the Payment of Wages Act, 1936 (IV of 1936), minimum wages shall be fixed in accordance therewith.

4. *Minimum rate of wages.*—(1) Any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employments under section 3 may consist of—

(i) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the "cost of living allowance"); or

(ii) a basic rate of wages with or without the cost of living allowance and the cash value of the concession in respect of supplies of essential commodities at concession rates, where so authorised; or

(iii) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

(2) The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rates shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate Government.

5. Procedure for fixing minimum wages.—(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act, the appropriate Government shall either,—

(a) appoint a committee to hold enquiries and advise it in this behalf with such sub-committees for different localities as it may deem expedient to appoint to assist such committee, or

(b) by notification in the official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee appointed under clause (a) of sub-section (1) or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the official Gazette, fix the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

6. Advisory Committees and Sub-Committees.—For the purpose of revising minimum rates of wages fixed under this Act, the appropriate Government shall appoint as many advisory committees and sub-committees as it considers necessary to inquire into the conditions prevailing in any scheduled employment and to advise the appropriate Government in making such revision in respect of that employment.

7. Advisory Board.—For the purpose of co-ordinating the work of committees, sub-committees, advisory committees and advisory sub-committees appointed under sections 5 and 6 and advising the appropriate Government generally in the matter of fixing and revising minimum rates of wages, the appropriate Government shall appoint an Advisory Board.

8. Central Advisory Board.—(1) For the purpose of advising the Central and ²[State Governments] in the matters of the fixation and revision of minimum rates of wages and other matters under this Act and for co-ordinating the work of the Advisory Boards, the Central Government shall appoint a Central Advisory Board.

(2) The Central Advisory Board shall consist of persons to be nominated by the Central Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of

² Subs. for "Provincial Governments" by L.A.O., 1950.

members; one of such independent persons shall be appointed the Chairman of the Board by the Central Government.

9. *Composition of committees, etc.*—Each of the committees, sub-committees, advisory committees, advisory sub-committees and the Advisory Board shall consist of persons to be nominated by the appropriate Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman by the appropriate Government.

10. *Procedure for revision of minimum rates of wages.*—(1) Before revising any minimum wages fixed under this Act, the appropriate Government shall consult all advisory committees appointed under section 6 to inquire into the conditions prevailing in the scheduled employment concerned, and the Advisory Board also.

(2) Revisions of minimum wages shall be notified by the appropriate Government in the official Gazette, and unless the notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

11. *Wages in kind.*—(1) Minimum wages payable under this Act shall be paid in cash.

(2) Where it has been the custom to pay wages wholly or partly in kind, the appropriate Government being of the opinion that it is necessary in the circumstances of the case may, by notification in the official Gazette, authorise the payment of minimum wages either wholly or partly in kind.

(3) If the appropriate Government is of the opinion that provision should be made for the supply of essential commodities at concession rates, the appropriate Government may, by notification in the official Gazette, authorise the provision of such supplies at concession rates.

(4) The cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates authorised under sub-sections (2) and (3) shall be estimated in the prescribed manner.

12. *Payment of minimum rates of wages.*—(1) Where in respect of any scheduled employment a notification under section 5 or section 10 is in force, the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employees in that employment without any deductions except as may be authorised within such time and subject to such conditions as may be prescribed.

(2) Nothing contained in this section shall affect the provisions of the Payment of Wages Act, 1936 (IV of 1936).

13. *Fixing hours for a normal working day, etc.*—In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate Government may—

(a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals;

(b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;

(c) provide for payment for work on a day of rest at a rate not less than the overtime rate.

14. Overtime.—(1) Where an employee, whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate Government for the time being in force, whichever is higher.

(2) Nothing in this Act shall prejudice the operation of the provisions of [section 59 of the Factories Act, 1948 (LXIII of 1948)] in any case where those provisions are applicable.

15. Wages of worker who works for less than normal working day.—If an employee whose minimum rate of wages has been fixed under this Act by the day works on any day on which he was employed for a period less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day:

Provided, however, that he shall not be entitled to receive wages for a full normal working day—

(i) in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work, and

(ii) in such other cases and circumstances as may be prescribed.

16. Wages for two or more classes of work.—Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.

17. Minimum time rate wages for piece work.—Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under this Act, the employer shall pay to such employee wages at not less than the minimum time rate.

18. Maintenance of registers and records.—(1) Every employer shall maintain such registers and records giving such particulars of employees employed by him, the work performed by them, the wages paid to them, the receipts given by them and such other particulars and in such form as may be prescribed.

* Subs. by Act 26 of 1954.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the factory, workshop or place where the employees in the scheduled employment may be employed, or in the case of out-workers, in such factory, workshop or place as may be used for giving out-work to them, notices in the prescribed form containing prescribed particulars.

(3) The appropriate Government may, by rules made under this Act, provide for the issue of wage books or wage slips to employees employed in any scheduled employment in respect of which minimum rates of wages have been fixed and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

19. Inspectors.—(1) The appropriate Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and define the local limits within which they shall exercise their functions.

(2) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed—

(a) enter, at all reasonable hours, with such assistants (if any), being persons in the service of the * [Government] or any local or other public authority, as he thinks fit, any premises or place where employees are employed or work is given out to out-workers in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, for the purpose of examining any register, record of wages or notices required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an employee employed therein or an employee to whom work is given out therein;

(c) require any person giving out-work and any out-workers, to give any information, which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;

(d) take copies of any register, record of wages or notices or of any portions thereof; and

(e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

20. Claims.—(1) The appropriate Government may, by notification in the official Gazette, appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the Authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages to employees employed or paid in that area.

* Subs. for "Crown" by L.A.O., 1950.

(2) Where an employee is paid less than the minimum rates of wages fixed for his class of work under this Act, the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the minimum wages became payable:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer or give them an opportunity of being heard, and after such further inquiry if any as it may consider necessary, may, without prejudice to any other penalty to which the employer may be liable under this Act, direct the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with the payment of such compensation as the Authority may think fit, not exceeding ten times the amount of such excess and the Authority may direct payment of such compensation in cases where the excess is paid by the employer to the employee before the disposal of the application.

(4) If the Authority hearing any application under this section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding fifty rupees be paid to the employer by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

(a) if the Authority is a Magistrate, by the Authority as if it were a fine imposed by the Authority as a Magistrate, or

(b) if the Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

(6) Every direction of the Authority under this section shall be final.

(7) Every Authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such Authority shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

21. Single application in respect of a number of employees.—(1) A single application may be presented under section 20 on behalf or in respect of any number of employees employed in the scheduled employment in respect of which minimum rates of wages have been fixed and

in such cases the maximum compensation which may be awarded under sub-section (3) of section 20 shall not exceed ten times the aggregate amount of such excess.

(2) The Authority may deal with any number of separate pending applications presented under section 20 in respect of employees in the scheduled employments in respect of which minimum rates of wages have been fixed, as a single application presented under sub-section (1) of this section and the provisions of that sub-section shall apply accordingly.

22. Penalties and Procedure.—(1) Any employer who pays to any employee less than the minimum rates of wages fixed for that employee's class of work or less than the amount due to him under the provisions of this Act, or infringes any order or rules made under section 13 shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both:

Provided that in imposing any fine for an offence under this sub-section, the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 20.

(2) Any employer who fails to maintain a register or record required to be maintained under section 18 shall be punishable with fine which may extend to five hundred rupees.

(3) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1), unless an application in respect of the facts constituting the offence has been presented under section 20 and has been granted wholly or in part, and the Authority granting such application has sanctioned the making of the complaint.

(4) No Court shall take cognizance of any offence under sub-section (2) except on a complaint made by, or with the sanction of, an Inspector.

(5) No Court shall take cognizance of an offence—

(a) under sub-section (1), unless complaint thereof is made within one month of the grant of sanction under sub-section (3);

(b) under sub-section (2), unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

23. Exemption of employer from liability in certain cases.—Where an employer is charged with an offence against this Act, he shall be entitled, upon complaint duly made by him, to have any other person whom he charges as the actual offender, brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged:

Provided that in seeking to prove, as aforesaid, the employer may be examined on oath, and the evidence of the employer or his witness, if any, shall be subject to cross-examination by or on behalf of the person whom the employer charges as the actual offender and by the prosecution.

24. Bar of suits.—No Court shall entertain any suit for the recovery of wages in so far as the sum so claimed—

(a) forms the subject of an application under section 20 which has been presented by or on behalf of the plaintiff, or

(b) has formed the subject of a direction under that section in favour of the plaintiff, or

(c) has been adjudged in any proceeding under that section not to be due to the plaintiff, or

(d) could have been recovered by an application under that section.

25. Contracting out.—Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the minimum rate of wages fixed under this Act.

26. Exemptions and exceptions.—(1) The appropriate Government may, subject to such conditions if any as it may think fit to impose, direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees.

(2) The appropriate Government may, if for special reasons it thinks so fit by notification in the official Gazette direct that for such period as it may specify the provisions of this Act or any of them shall not apply to all or any class of employees employed in any scheduled employment or to any locality where there is carried on a scheduled employment.

¹[(2) The appropriate Government may, if it is of opinion that, having regard to the terms and conditions of service applicable to any class of employees in a scheduled employment generally or in a scheduled employment in a local area, it is not necessary to fix minimum wages in respect of such employees of that class as are in receipt of wages exceeding such limit as may be prescribed in this behalf, direct, by notification in the Official Gazette and subject to such conditions, if any, as it may think fit to impose, that the provisions of this Act or any of them shall not apply in relation to such employees.]

¹ Ins. by Act 26 of 1954.

(3) Nothing in this Act shall apply, to the wages payable by an employer to a member of his family who is living with him and is dependant on him.

Explanation.—In this sub-section a member of the employer's family shall be deemed to include his or her spouse or child or parent or brother or sister.

27. Power of State Government to add to Schedule.—The appropriate Government, after giving by notification in the official Gazette not less than three months' notice of its intention so to do, may, by like notification, add to either Part of the Schedule any employment in respect of which it is of opinion that minimum rates of wages should be fixed under this Act, and thereupon the Schedule shall in its application to the "[State]" be deemed to be amended accordingly.

28. Power of Central Government to give directions.—The Central Government may give directions to a "[State Government]" as to the carrying into execution of this Act in the "[State]".

29. Power of the Central Government to make rules.—The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules^a prescribing the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the Central Advisory Board.

30. Power of appropriate Government to make rules.—(1) The appropriate Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules^b for carrying out the purposes of this Act;

(2) without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner

^a Subs. for "Province" by L.A.O., 1950.

^b Subs. for "Provincial Government" by L.A.O., 1950.

^c For such Rules, viz., (1) The Minimum Wages (Central) Rules, 1950 see Notification No. S.R.O. 776, d/- 14.10.50, published in Gazette of India, d/- 14.10.50, Pt. II-Sec. 3, p. 781, and (2) The Minimum Wages (Central Advisory Board) Rules, 1949, see Notification No. L.WI-24(13), d/- 25.10.49; see also post.

^d Different States have framed Rules under this section; see—

(i) in Assam, The Assam Minimum Wages Rules, 1952;

(ii) in Bihar, The Bihar Minimum Wages Rules, 1951;

(iii) in Bombay, The Bombay Minimum Wages Rules, 1951;

(iv) in Madhya Pradesh, The Madhya Pradesh Minimum Wages Rules,

1951;

(v) in Madras, The Minimum Wages (Madras) Rules, 1953;

(vi) in Peasu, The Peasu Minimum Wages Rules, 1951;

(vii) in Punjab, The Punjab Minimum Wages Rules, 1950;

(viii) in Uttar Pradesh, The Uttar Pradesh Minimum Wages Rules, 1952;

(ix) in West Bengal, The West Bengal Minimum Wages Rules, 1951.

of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the committees, sub-committees, advisory committees, advisory sub-committees and the Advisory Board;

(b) prescribe the method of summoning witnesses, production of documents relevant to the subject-matter of the enquiry before the committees, sub-committees, advisory committees, advisory sub-committees and the Advisory Board;

(c) prescribe the mode of computation of the cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates;

(d) prescribe the time and conditions of payment of, and the deductions permissible from, wages;

(e) provide for giving adequate publicity to the minimum rates or wages fixed under this Act;

(f) provide for a day of rest in every period of seven days and for the payment of remuneration in respect of such day;

(g) prescribe the number of hours of work which shall constitute a normal working day;

(h) prescribe the cases and circumstances in which an employee employed for a period of less than the requisite number of hours constituting a normal working day shall not be entitled to receive wages for a full normal working day;

(i) prescribe the form of registers and records to be maintained and the particulars to be entered in such registers and records;

(j) provide for the issue of wage books and wage slips and prescribe the manner of making and authenticating entries in wage books and wage slips;

(k) prescribe the powers of Inspectors for purposes of this Act;

(l) regulate the scale of costs that may be allowed in proceedings under section 20;

(m) prescribe the amount of court-fees payable in respect of proceedings under section 20; and

(n) provide for any other matter which is to be or may be prescribed.

¹[31. *Validation of fixation of certain minimum rates of wages.*—Where during the period commencing on the 1st day of April, 1952, and ending with the date of commencement of the Minimum Wages (Amendment) Act, 1954, minimum rates of wages have been fixed by an appropriate Government as being payable to employees employed in any employment specified in Part I of the Schedule in the belief or purported belief that such rates were being fixed under sub-clause (i) of clause (a) of sub-section (1) of section 3, such rates shall be deemed to have been fixed in accordance with law, and shall not be called in question in any court on the ground merely that the date specified in that sub-clause had expired at the time the rates were fixed;

Provided that nothing contained in this section shall extend, or be construed to extend, to affect any person with any punishment or

¹ Added by Act 26 of 1954.

penalty whatsoever by reason of the payment by him by way of wages to any of his employees during the period specified in this section an amount which is less than the minimum rates of wages referred to in this section or by reason of non-compliance during the period aforesaid with any order or rule issued under section 13.]

THE SCHEDULE

[See sections 2(*g*) and 27]

PART I

1. Employment in any woollen carpet making or shawl weaving establishment.
2. Employment in any rice mill, flour mill or *dal* mill.
3. Employment in any tobacco (including *bidi* making) manufactory.
4. Employment in any plantation, that is to say, any estate which is maintained for the purpose of growing cinchona, rubber, tea or coffee.
5. Employment under any local authority.
7. Employment on road construction or in building operations.
8. Employment in stone breaking or stone crushing.
9. Employment in any lac manufactory.
10. Employment in any mica works.
11. Employment in public motor transport.
12. Employment in tanneries and leather manufactory.

PART II

1. Employment in agriculture, that is to say, in any form of farming, including the cultivation and tillage of the soil, dairy farming, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of live stock, bees or poultry, and any practice performed by a farmer or on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market of farm produce).

THE MINIMUM WAGES (CENTRAL) RULES, 1950¹

CHAPTER I

PRELIMINARY.

1. *Short title and extent.*—These rules may be called the Minimum Wages (Central) Rules, 1950.

2. *Interpretation.*—In these rules, unless the context otherwise requires—

(a) 'Act' means the Minimum Wages Act, 1948;

¹ See Notification No. S.R.O. 776, d/- 14.10.50, published in Gazette of India, d/- 14. 10. 50, Pt. II-Sec. 3, p. 781.

(b) 'advisory committee' means an advisory committee appointed under section 6 and includes an advisory sub-committee appointed under that section;

(c) 'Authority' means the authority appointed under sub-section (1) of Section 20;

(d) 'Board' means the Advisory Board appointed under section 7;

(e) 'Chairman' means the Chairman of the Advisory Board, the Committee or the Advisory Committee, as the case may be, appointed under Section 9;

(f) 'committee' means a Committee appointed under clause (a) of sub-section (1) of section 5 and includes a sub-committee appointed under that Section.

2[(ff), 'day' means a period of twentyfour hours beginning at midnight;]

(g) 'form' means a form appended to these rules;

(h) 'Inspector' means a person appointed as Inspector under section 19;

(i) 'registered trade union' means a trade union registered under the Indian Trade Union Act, 1926;

(j) 'Section' means a section of the Act; and

(k) All other words and expressions used herein and not defined shall have the meaning respectively assigned to them under the Act.

CHAPTER II

MEMBERS AND STAFF, AND MEETINGS OF THE BOARD, COMMITTEE AND ADVISORY COMMITTEE.

3. *Term of office of the members of the Committee and the Advisory Committee.*—The term of office of the members of the Committee or an Advisory Committee shall be such as in the opinion of the Central Government is necessary for completing the inquiry into the scheduled employment concerned and the Central Government may, at the time of the constitution of the Committee, or an Advisory Committee, as the case may be, fix such terms and may, from time to time, extend it as circumstances may require.

4. *Term of office of members of the Board.*—(1) Save as otherwise expressly provided in these rules, the term of office of a non-official member of the Board, shall be two years commencing from the date of his nomination.

Provided that such member shall, notwithstanding the expiry of the said period of two years, continue to hold office until his successor is nominated.

(2) A non-official member of the Board nominated to fill a casual vacancy shall hold office for the remaining period of the term of office of the member in whose place he is nominated.

¹ Added by Notification No. S.R.O. 1932, d/- 6.10.33, vide Gazette of India, d/- 17.10.33, Pt. II-Sec. 3, p. 1654.

(3) The official members of the Board shall hold office during the pleasure of the Central Government.

5. *Travelling allowance.*—A non-official member of the Committee, an Advisory Committee or the Board shall be entitled to draw travelling and halting allowance for any journey performed by him in connection with his duties as such member at the rates and subject to the conditions applicable to a Government servant of the first class under the appropriate rules of the Central Government.

6. *Staff.*—(1) The Central Government may appoint a Secretary to the Committee, an Advisory Committee or the Board and such other staff as it may think necessary, and may fix the salaries and allowances payable to them and specify their conditions of service.

(2) (i) The Secretary shall be the Chief Executive Officer of the Committee, the Advisory Committee or the Board as the case may be. He may attend the meetings of such Committee, Advisory Committee or Board but shall not be entitled to vote at such meetings.

(ii) The Secretary shall assist the Chairman in convening meetings and shall keep a record of the minutes of such meetings and shall take necessary measures to carry out the decisions of the Committee, the Advisory Committee or the Board, as the case may be.

7. *Eligibility for renomination of the members of the Committee, Advisory Committee and the Board.*—An out-going member shall be eligible for renomination for the membership of the Committee, Advisory Committee or the Board, of which he was a member.

8. *Resignation of the Chairman and Members of the Committee, Advisory Committee and the Board and filling of casual vacancies.*—(1) A member of the Committee, Advisory Committee or the Board other than the Chairman may, by giving notice in writing to the Chairman, resign his membership.

(2) The Chairman may resign by letter addressed to the Central Government.

(3) When a vacancy occurs or is likely to occur in the membership of the Committee, Advisory Committee or the Board, the Chairman shall submit a report to the Central Government immediately. The Central Government shall then take steps to fill vacancy.

9. *Cessation and restoration of membership.*—(1) If a member of the Committee, Advisory Committee or the Board fails to attend three consecutive meetings, he shall subject to the provisions of sub-rule (2), cease to be a member thereof.

(2) A person, who ceases to be a member under sub-rule (1) shall be given intimation of such cessation by a letter sent to him by registered post within fifteen days from the date of such cessation. The letter shall indicate that if he desires restoration of his membership, he may apply therefor within thirty days from the receipt of such letter. The application for restoration of membership, if received within the said period, shall be placed before the Committee, the Advisory Committee or the Board, as the case may be, and if a majority of members present at the

next meeting is satisfied that the reasons for failure to attend three consecutive meetings are adequate, the member shall be restored to membership immediately after a resolution to that effect is adopted.

10. Disqualification.—(1) A person shall be disqualified for being nominated as, and for being a member of the Committee, Advisory Committee or the Board, as the case may be,—

(i) if he is declared to be of unsound mind by a competent court; or

(ii) if he is an undischarged insolvent; or

(iii) if before or after the commencement of the Act, he has been convicted of an offence involving moral turpitude.

(2) If any question arises whether a disqualification has been incurred under sub-rule (1) the decision of the Central Government thereon shall be final.

11. Meetings.—The Chairman may, subject to the provisions of rule 12, call a meeting of the Committee, Advisory Committee or the Board, as the case may be, at any time he thinks fit:

Provided that on a requisition in writing from not less than one half of the members the Chairman shall call a meeting within fifteen days from the date of the receipt of such requisition.

12. Notice of meetings.—The Chairman shall fix the date, time and place of every meeting, and a notice in writing containing the aforesaid particulars along with a list of business to be conducted at the meeting shall be sent to each member by registered post at least fifteen days before the date fixed for such meeting:

Provided that in the case of an emergent meeting, notice of seven days only may be given to every member.

13. Chairman.—(1) The Chairman shall preside at the meetings of the Committee, Advisory Committee or the Board, as the case may be.

(2) In the absence of the Chairman at any meeting the members shall elect from amongst themselves by a majority of votes, a member, who shall preside at such meeting.

14. Quorum.—No business shall be transacted at any meeting unless at least one third of the members are present:

Provided that if at any meeting less than one-third of the members are present, the Chairman may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members present.

15. Disposal of business.—All business shall be considered at a meeting of the Committee, Advisory Committee or the Board, as the case may be, and shall be decided by a majority of the votes of members present and voting. In the event of an equality of votes the Chairman shall have a casting vote:

Provided that the Chairman may if he thinks fit direct that any matter shall be decided by the circulation of necessary papers and by securing written opinion of the members:

Provided further that no decision on any matter under the preceding proviso shall be taken, unless supported by not less than a two-thirds majority of the members.

16. Method of voting.—Voting shall ordinarily be by show of hands, but if any member asks for voting by ballot, or if the Chairman so decides, the voting shall be by secret ballot and shall be held in such manner as the Chairman may decide.

17. Proceedings of the meeting.—(1) The proceedings of each meeting showing *inter alia* the names of the members present thereat shall be forwarded to each member and to the Central Government as soon after the meeting as possible and in any case, not less than seven days before the next meeting.

(2) The proceedings of each meeting shall be confirmed with such modifications, if any, as may be considered necessary at the next meeting.

CHAPTER III

SUMMONING OF WITNESSES BY THE COMMITTEE, ADVISORY COMMITTEE AND THE BOARD AND PRODUCTION OF DOCUMENTS.

18. Summoning of witnesses and production of documents.—(1) A Committee, Advisory Committee or the Board may summon any person to appear as a witness in the course of an inquiry. Such summons may require a witness to appear before it on a date specified therein and to produce any books, papers or other documents and things in his possession or under his control relating in any manner to the inquiry.

(2) A summons under sub-rule (1) may be addressed to an individual or an organisation of employers or a registered trade union of workers.

(2) A summons under this rule may be served—

(i) in the case of an individual, by being delivered or sent to him by registered post;

(ii) in the case of an employers' organisation or a registered trade union of workers, by being delivered or sent by registered post to the secretary or other principal officer of the organisation or union, as the case may be.

(4) The provision of the Code of Civil Procedure, 1908, relating to the summoning and enforcement of the appearance of witnesses and the production of documents shall, so far as may be, apply to proceedings before a Committee, Advisory Committee or the Board.

19. Expenses of witnesses.—Every person who is summoned and appears as a witness before the Committee, the Advisory Committee or the Board shall be entitled to an allowance for expenses by him in accordance with the scale for the time being in force for payment of such allowance to witnesses appearing in civil courts in the State.

CHAPTER IV

COMPUTATION AND PAYMENT OF WAGES, HOURS OF WORK AND HOLIDAYS.

20. *Mode of computation of the cash value of wages.*—The retail prices at the nearest market shall be taken into account in computing the cash value of wages paid in kind and of essential commodities supplied at concession rates. This computation shall be made in accordance with such directions as may be issued by the Central Government from time to time.

21. *Time and conditions of payment of wages and the deductions permissible from wages.*—(1) (i) The wage period with respect to any scheduled employment for which wages have been fixed shall not exceed one month and the wages of a worker in such employment shall be paid on a working day.

(a) in the case of establishments in which less than one thousand persons are employed before the expiry of the seventh day, and

(b) in the case of other establishments before the expiry of the tenth day after the last day of the wage period in respect of which the wages are payable.

(ii) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day after the day on which his employment is terminated.

(iii) The wages of an employed person shall be paid to him without deduction of any kind except those authorised by or under these rules.

Explanation.—Every payment made by the employed person to the employer or his agent shall, for the purposes of these rules, be deemed to be a deduction from wages.

(2) Deductions from the wages of a person employed in a scheduled employment shall be of one or more of the following kinds, namely:—

²⁴[(i) fines in respect of such acts and omissions on the part of employed persons as may be specified by the Central Government by general or special order in this behalf;]

(ii) deductions for absence from duty;

(iii) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

(iv) deductions for house accommodation supplied by the employer;

(v) deductions for such amenities and services supplied by the employer as the Central Government, may by general or special order authorise.

²⁴ Substituted for original clause (i) by Notification No. S.R.O. 1854, d/- 27.5.54; see Gazette of India, d/- 5.6.54, Pt. II-Sec. 3, p. 1431.

Explanation.—The words 'amenities and services' in this clause do not include the supply of tools and protectives required for the purposes of employment;

(vi) deductions for recovery of advances or for adjustment of over-payments of wages;

Provided that such advances do not exceed an amount equal to wages for two calendar months of the employed person and, in no case, shall the monthly instalment of deduction exceed one-fourth of the wages earned in that month;

(vii) deductions of income-tax payable by the employed person;

(viii) deductions required to be made by order of a court or other competent authority;

(ix) deductions for subscriptions to, and for repayment of advances from any provident fund to which the Provident Fund Act, 1925, applies or any recognised provident fund as defined in section 58A of the Indian Income Tax Act, 1922, or any provident fund approved in this behalf by the Central Government during the continuance of such approval;

(x) deductions for payment to co-operative societies or to a scheme of insurance approved by the Central Government.

(3) Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss caused by him shall explain to him personally and also in writing the act or omission or the damage or loss, in respect of which the fine or deduction is proposed to be imposed or made and give him an opportunity to offer any explanation in the presence of another person. The amount of the said fine or deduction shall also be intimated to him.

(4) The amount of fine or deduction mentioned in sub-rule (3) shall be such as may be specified²⁶ by the Central Government. All such deductions, and all realisation thereof shall be recorded in a register maintained in forms I, II and III, as the case may be. A return in form III shall be submitted annually by the employer.

²⁶[(5) The amount of fine imposed under sub-rule (3) shall be utilised only for such purposes beneficial to the employees as are approved by the Central Government.]

(6) Nothing in this rule shall be deemed to affect the provisions of the Payment of Wages Act, 1936.

22. Publicity to the minimum wage fixed under the Act.—Notices²⁷ [in form IX A] containing the minimum rates of wages fixed together with extracts from the Act, the rules made thereunder and the name and address of the Inspector shall be displayed in English and in a

²⁶ Amount of fine and deduction under sub-rule (3) have been specified by Notification No. S.R.O. 1332, d/- 26.6.53; vide Gazette of India, d/- 4.7.53, Pt. II-Sec. 3, p. 965.

²⁷ Substituted for original sub-rule (5) by Notification No. S.R.O. 2574, d/- 3.8.54; vide Gazette of India, d/- 7.8.54, Pt. II-Sec. 3, p. 1899.

²⁸ Added by Notification No. S.R.O. 2737, d/- 11.8.54, vide Gazette of India, d/- 11.8.54, Pt. II-Sec. 3, p. 2041.

language understood by the majority of the workers in the employment at such place as may be selected by the Inspector and shall be maintained in a clean and legible condition. Such notices shall also be displayed on the notice boards of all Sub-divisional and District Offices.

23. Weekly Holidays.—(1) Unless otherwise permitted by the Central Government, no worker shall be required or allowed to work in a scheduled employment, on the first day of the week (hereinafter referred to as the said day) except when he has or will have a holiday for the whole day on one of the five days immediately before or after the said day for which he shall receive payment equal to his average daily wages during the preceding week:

Provided that the weekly holidays may be substituted by another day:

Provided further that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Where in accordance with the provision of sub-rule (1) any worker works on the said day and has had a holiday on one of the five days immediately preceding it, the said day shall for the purposes of calculating his weekly hours of work, be included in the preceding week.

Explanation.—For the purposes of this rule 'week' shall mean a period of seven days beginning at midnight on Saturday night.

24. Number of hours of work which shall constitute a normal working day.—(1) The number of hours which shall constitute a normal working day shall be,—

(a) in the case of an adult, 9 hours.

(b) in the case of a child, $4\frac{1}{2}$ hours.

(2) The working day of an adult worker shall be so arranged that inclusive of the intervals for rest, if any, it shall not spread over more than twelve hours on any day.

(3) The number of hours of work in the case of an adolescent shall be the same as that of an adult or a child according as he is certified to work as an adult or a child by a competent medical practitioner approved by the Central Government.

(4) The provisions of sub-rules (1) to (3) shall, in the case of workers in Agricultural employment, be subject to such modifications as may, from time to time, be notified by the Central Government.

²³(4-D) No child shall be employed or permitted to work for more than $4\frac{1}{2}$ hours on any day].

(5) Nothing in this rule shall be deemed to affect the provisions of the Factories Act, 1948.

*[**24A. Night Shifts.**—Where a worker in a scheduled employment works on a shift which extends beyond midnight,

²³ Added by Notification No. S.R.O. 3304, d/- 20.10.54, vide Gazette of India, d/- 30.10.54, Pt. II-Sec. 3, p. 2557.

²⁴ Added by Notification No. S.R.O. 1952, d/- 6.10.53, vide Gazette of India, d/- 17.10.53, Pt. II-Sec. 3, p. 1634.

(a) a holiday for the whole day for the purposes of rule 23 shall in his case mean a period of twenty-four consecutive hours beginning from the time when his shift ends; and

(b) the following day in such a case shall be deemed to be the period of twenty-four hours beginning from the time when such shift ends, and the hours after midnight during which such worker was engaged in work shall be counted towards the previous day.]

25. Extra wages for overtime.—(1) When a worker works in an employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages,

(a) in the case of employment in Agriculture, at one and a half time the ordinary rate of wages;

(b) in the case of any other scheduled employment, at double the ordinary rate of wages.

Explanation.—The expression "ordinary rate of wages" means the basic wage plus such allowances including the cash equivalent of the advantages accruing through the concessional sale to the person employed of foodgrains and other articles as the person employed is for the time being entitled to but does not include a bonus.

(2) A register showing overtime payment shall be kept in form IV.

(3) Nothing in this rule shall be deemed to affect the provisions of the Factories Act, 1948.

26. Form of registers and records.—(1) A Register of Wages shall be maintained by every employer ^{2,3}[at the workspot] and kept in such form as may be notified by the Central Government and shall include the following particulars:

(a) The Minimum rates of wages payable to each person employed;

(b) The number of days for which each employed person worked over-time for each wage period;

(c) The gross wages of each person employed for each wage period;

(d) All deductions made from wages with an indication, in each case, of the kinds of deductions mentioned in sub-rule (2) of rule 21;

(e) The wages actually paid to each person employed for each wage period and the date of payment.

(2) Wage slips containing the aforesaid particulars and such other particulars as may be notified by the Central Government shall be issued by every employer to every person employed by him at least a day prior to the disbursement of wages.

(3) Every employer shall get the signature or the thumb impression of every person employed on the wage book and wage slip.

(4) Entries in the wage books and wage slips shall be authenticated by the employer or any person authorised by him in this behalf.

(5) A Muster Roll shall be maintained by every employer ^{2,3}[at the workspot] and kept in form V.

^{2,3} Added by Notification No. S.R.O. 1112, d/- 2.6.53; vide Gazette of India, d/- 13.6.53, Pt. II-Sec. 3, p. 857.

CHAPTER V

CLAIMS UNDER THE ACT

27. Applications.—An application under sub-section (2) of section 20 or sub-section (1) of section 21, by or on behalf of an employed person or group of employed persons, shall be made in duplicate in forms VI and VII, as the case may be.

28. Authorisation.—The authorisation to act on behalf of an employed person or persons, under sub-section (2) of section 20 or of sub-section (1) of section 21 shall be given in form VIII by an instrument which shall be presented to the Authority hearing the application and shall form part of the record.

29. Appearance of parties.—(1) If an application under sub-section (2) of section 20 or section 21 is entertained, the Authority shall serve upon the employer by registered post a notice in form IX to appear before him on a specified date with all relevant documents and witnesses, if any, and shall inform the applicant of the date so specified.

(2) If the employer or his representative fails to appear on the specified date, the Authority may hear and determine the application *ex parte*.

(3) If the applicant or his representative fails to appear on the specified date, the Authority may dismiss the application.

(4) An order passed under sub-rule (2) or sub-rule (3) may be set aside on sufficient cause being shown by the defaulting party within one month of the date of the said order, and the application shall then be reheard after service of notice on the opposite party of the date fixed for re-hearing, in the manner specified in sub-rule (1).

CHAPTER VI

SCALE OF COSTS IN PROCEEDINGS UNDER THE ACT

30. Costs.—(1) The Authority, for reasons to be recorded in writing, may direct that the cost of any proceeding pending before it shall not follow the event.

(2) The costs which may be awarded shall include:—

(i) expenses incurred on account of court-fees;

(ii) expenses incurred on subsistence money to witnesses; and

(iii) pleader's fees to the extent of ten rupees provided that the Authority in any proceeding, may reduce the fees to a sum not less than five rupees or for reasons to be recorded in writing increase it to a sum not exceeding twenty-five rupees.

(3) Where there are more than one pleaders or more than one applicants or opponents the Authority may, subject as aforesaid, award to the successful party or parties such costs as it may deem proper.

31. Court fees.—The Court fee payable in respect of proceedings under section 20 shall be—

(i) for every application to summon a witness—One rupee in respect of each witness;

(ii) for every application made by or on behalf of an individual—One rupee;

Provided that the Authority may, if in its opinion, the applicant is a pauper exempt him wholly or partly from the payment of such fees:

Provided further that no fee shall be chargeable

(a) from persons employed in Agriculture; or

(b) in respect of an application made by an Inspector.

[CHAPTER VII

MISCELLANEOUS

***[32. Saving.**—These Rules shall not apply in relation to any scheduled employment in so far as there are in force rules applicable to such employment, which in the opinion of the Central Government, make equally satisfactory provisions for the matters dealt with by these Rules and such opinion shall be final.]]

¹ Chapter VII and rule 32 thereunder inserted by Notification No. S.R.O. 1276, d/- 19.6.55, vide Gazette of India, d/- 27.6.55, Pt. II-Sec. 3, p. 543.

² Substituted for former rule 32 by Notification No. 465, d/- 12.2.55, vide Gazette of India, d/- 26.2.55, Pt. II-Sec. 3, p. 336.

FORM III

[Rule 21(4)]

Deduction from wages

Return for the year ending the 31st December.....

1. Name of the employer and postal address.....

2. Total number of persons employed { Adults.....
Children.....

3. Total wages paid.....

4. Number of cases and amounts realised as:—

No. of cases:

Amount

- (a) Fines.....
 (b) Deductions for damage or loss.....
 (c) Deductions for breach of contract.....
 5. Disbursements from Fine Fund.....

Amount

Purpose

Rs.

Dated.....19

Signature.....

Designation.....

FORM VI

[FORM OF APPLICATION BY AN EMPLOYEE UNDER SECTION 20(2)]

In the Court of the Authority appointed under the Minimum Wages Act, 1948, for.....Area.

Application No. of 19 ..

(1)	}	Applicant(s)
(2)		
(3)		

(through a Legal Practitioner
..... official of Union which is a
registered Trade (Union).

Address.....

Versus

(1)	}	Opponents.
(2)		
(3)		

Address.....

The applicant(s) above-named beg(s) respectfully to submit as follows:—

- (1) that.....
- (2) that.....

The applicant(s) has (have) been paid wages at less than the minimum rate of wages.

The applicant(s) estimate(s) the value of the relief sought by him (them) at the sum of Rs.....

The applicant(s) pray(s) that a direction may be issued under sub-section (3) of Section 20 for:—

(a) Payment of the difference between the wages due according to the minimum rate of wages fixed by Government and the wages actually paid, and

(b) Compensation amounting to Rs.....

The applicant(s) beg(s) leave to amend or add to or make alterations in the application if any and when necessary.

Signature or thumb impression of
the employee(s), legal practitioner
or official of a registered trade
union duly authorised.

Date.....

The applicant(s) do(es) solemnly declare that what is stated above is true to the best of his (their) knowledge, belief and information.

This verification is signed at.....on.....day of.....19 ..

Signature or thumb impression of the
employee(s), legal practitioner or
official of a registered trade union
duly authorised.

FORM VII

[FORM OF APPLICATION BY AN INSPECTOR OR PERSON ACTING WITH THE PERMISSION OF THE AUTHORITY UNDER SECTION 20(2)].

In the Court of the Authority appointed under the Minimum Wages Act, 1948, for.....area.

Application No. of 19 ..

(1)Applicant.

Address.....

Versus

(1)Opponent.

Address.....

The applicant above-named begs respectfully to submit as follows:—

(1) that

(2) that

The opponent is bound to pay wages at the minimum rate of wages fixed by Government but he has paid less wages to the following employees:—

(1)

(2)

(3)

The applicant estimates the value of the relief sought for the employees at the sum of Rs.....

The applicant prays that a direction may be issued under sub-section (3) of Section 20 for:—

(a) Payment of the difference between the wages due according to the minimum rate of wages fixed by Government and the wages actually paid, and

(b) Compensation amounting to Rs.....

*When the application is by a group of employees, the thumb impression or signatures of two of the applicants need be put to the application and a full list of applicants should be attached to the application.

The applicant begs leave to amend or add to or make alterations in the application if and when necessary.

Date..... Signature.....

The applicant does solemnly declare that what is stated above is true to the best of his knowledge, belief and information. This verification is signed at.....on.....day.....19 ..

FORM VIII

[FORM OF AUTHORITY IN FAVOUR OF A LEGAL PRACTITIONER OR ANY OFFICIAL OF A REGISTERED TRADE UNION REFERRED TO IN SECTION 20(2).]

In the Court of the Authority appointed under the Minimum Wages Act, 1948, for.....Area.....

Application No. of 19 ..

(1)
(2)
(3) } Applicant(s)

Versus

(1)
(2)
(3) } Opponent(s)

I hereby authorise Mr....., a legal practitioner, an official of the registered trade union of.....to appear and act on my behalf in the above-described proceeding and to do all things incidental to such appearing and acting.

Signature or thumb impression of the employee.

Date.....

FORM IX

[FORM OF SUMMONS TO THE OPPONENT TO APPEAR BEFORE THE AUTHORITY WHEN AN APPLICATION UNDER SUB-SECTION (2) OF SECTION 20 OR UNDER SECTION 21 IS ENTERTAINED.]

(Title of the application).

To

(Name, description and place of residence.)

WHEREAS.....has made the abovesaid application to me under the Minimum Wages Act, 1948, you are hereby summoned to appear before me in person or by a duly authorised agent, and able to answer all material questions relating to the application, or

who shall be accompanied by some person able to answer all such questions, on the..... day of..... 19..... at..... o'clock in the..... noon, to answer the claim; and as the day fixed for the appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witness upon whose evidence and all the documents upon which you intend to rely in support of your defence.

Take notice that in default of your appearance on the day before-mentioned, the application will be heard and determined in your absence.

Date.....

*["FORM IXA"]

Notices (Rule 22)

EXTRACTS FROM THE MINIMUM WAGES ACT 1948 AND THE RULES MADE THEREUNDER

I. Whom the Act affects

1. (a) The Act applies to persons engaged on scheduled employments on specified class of work in respect of which minimum wages have been fixed.

(b) No employee can give up by contract or agreement his rights in so far as it purports to reduce the minimum rates of wages fixed under the Act.

II. Definition of Wages

(1) 'Wages' means all remuneration payable to an employed person on the fulfilment of his contract of employment. It excludes—

(i) the value of any house-accommodation, supply of light, water, medical attendance or any other amenity or any service extended by general or special order of the appropriate Government;

(ii) Contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of Social Insurance;

(iii) the travelling allowance or the value of any travelling concession;

(iv) the sum paid to the person employed to defray special expenses entailed on him by the nature of his employment;

(v) Gratuity payable on discharge.

(2) The Minimum rate of wages may consist of

(i) a basic rate of wages and special allowance called the cost of living allowance,

(ii) a basic rate of wages with or without a cost of living allowance and the cash value of any concessions, like supplies of essential commodities at concession rates.

(iii) an all inclusive rate comprising of basic rate, cost of living allowance and cash value of concession, if any.

* Added by Notification No. S.R.O. 2727, d/- 11.8.54, vide Gazette of India, d/- 21.8.54, Pt. II-Sec. 3, p. 2041.

3. The minimum wages payable to employees of scheduled employments notified under section 5 read with section 3 or as revised from time to time under section 10 read with section 3 may be

- (a) a minimum time rate
- (b) a minimum piece rate
- (c) a guaranteed time rate
- (d) an over-time rate;

differing with (1) different scheduled employments (2) different classes of work (3) different localities (4) different wage periods and (5) different age groups.

III. Computation and Conditions of Payment.

The employer shall pay to every employee engaged in scheduled employment under him wages at a rate not less than the minimum rate of wages fixed for that class of employee.

The minimum wages payable under this Act shall be paid in cash unless the Government authorises payment thereof either wholly or partly in kind.

Wage periods shall be fixed for the payment of wages at intervals not exceeding one month.

Wage shall be paid on a working day within seven days of the end of the wage period or within ten days if 1000 or more persons are employed.

The wages of a person discharged shall be paid not later than the second working day after his discharge.

If an employee is employed on any day for a period less than the normal working day he shall be entitled to receive wages for a full normal working day provided his failure to work is not caused by his unwillingness to work but by the omission of the employer to provide him with work for that period.

Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work wages at not less than the minimum rate in force in respect of each such class.

Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed, the employer shall pay to such employee wages at not less than the minimum time rate.

IV. Hours of Work and Holidays.

The number of hours which shall constitute a normal working day shall be

- (a) in the case of an adult, 9 hours.
- (b) in the case of a child, $4\frac{1}{2}$ hours.

The working day of an adult worker inclusive of the intervals of rest shall not exceed twelve hours on any day.

The employer shall allow a day of rest with pay in every period of seven days. Ordinarily Sunday the first day of the week shall be the holiday.

When a worker works in an employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall in respect of overtime worked be entitled to wages in scheduled employment other than agriculture, at double the ordinary rate of wages.

V. Fines and Deductions.

No deductions shall be made from wages except those authorised by or under the rules.

Deductions from the wages shall be one or more of the following kinds, namely:—

(i) Fines: An employed person shall be explained personally and also in writing the act or omission in respect of which the fine is proposed to be imposed and given an opportunity to offer any explanation in the presence of another person. The amount of the said fine shall also be intimated to him. It shall be such as may be specified by the Central Government. It shall be utilised in accordance with the directions of the Central Government;

(ii) Deductions for absence from duty;

(iii) Deductions for damage to or loss of goods entrusted to the employee for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default. The employed person shall be explained personally and also in writing the damage or loss, in respect of which the deduction is proposed to be made and given an opportunity to offer any explanation in the presence of another person. The amount of the said deduction shall also be intimated to him. It shall be such as may be specified by the Central Government;

(iv) deductions for house accommodation supplied by the employer;

(v) deductions for such amenities and services supplied by the employer as the Central Government may by general or special order authorise. These will not include the supply of tools and protectives required for the purposes of employment;

(vi) deductions for recovery of advances or for adjustment of overpayment of wages; such advances shall not exceed an amount equal to wages for two calendar months of the employed person and the monthly instalment of deduction shall not exceed one-fourth of the wages earned in that month;

(vii) deductions of income-tax payable by the employed person;

(viii) deductions required to be made by order of a court or other competent authority;

(ix) deductions for subscriptions to and for repayment of advances from any provident fund;

(x) deductions for payment to co-operative societies or to a scheme of insurance approved by the Central Government.

VI. Maintenance of Registers and Records.

Every employer shall maintain a register of wages specifying the following particulars for each period in respect of each employed person.

- (a) The minimum rates of wages payable.
- (b) The number of days in which over-time was worked.
- (c) The gross wages.
- (d) All deductions made from wages.
- (e) The wages actually paid and the date of payment.

Every employer shall issue wage slips containing prescribed particulars to every person employed.

Every employer shall get the signature or the thumb impression of every person employed on the wage-book and wage-slips.

Entries in the wage-books and wage-slips shall be properly authenticated by the employer or his agent.

A muster Roll shall be maintained by every employer and kept in the form prescribed.

Every employer shall keep exhibited at such places selected by the inspector, notices in English and in language understood by a majority of the workers of the following particulars in a clean and legible form

- (a) Minimum rate of wages.
- (b) Extracts from the Acts and the Rules made thereunder.
- (c) Name and address of the Inspector.

VII. Inspections.

An inspector can enter in any premises and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

VIII. Claims and Complaints.

Where an employee is paid less than the minimum rates of wages fixed for his class of work, or less than the amount due to him under the provisions of this Act, he can make an application in the prescribed form within six months to the authority appointed for the purpose. An application delayed beyond this period may be admitted if the authority is satisfied that the applicant had sufficient cause for not making the application within such period.

Any legal practitioner, official of a registered trade union, Inspector under the Act or other person acting with the permission of the Authority can make the complaint on behalf of an employed person.

A single application may be presented by or on behalf of any number of persons belonging to the same factory the payment of whose wages has been delayed.

A complaint regarding less payment of notified wages under section 22 of the Act can be made to the court only with the sanction of the Authority within one month of the grant of such sanction.

A complaint under section 22 of the Act can be made to the court only by or with the sanction of an Inspector within six months of the date on which the offence is alleged to have been committed.

IX. Action By The Authority.

The Authority may direct the payment of the amount by which the minimum wages payable exceed the amount actually paid together with the payment of compensation not exceeding ten times the amount of such excess. The Authority may direct payment of compensation in cases where the excess is paid before the disposal of the application.

If a malicious or vexatious complaint is made; the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

Every direction of the authority shall be final.

X. Penalty For Offence Under The Act.

Any employer who pays to any employee less than the amount due to him under the provisions of this Act or infringes any order or rules in respect of normal working day, weekly holiday, shall be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Any employer who fails to maintain a register or record required to be maintained under section 18, shall be punishable with fine which may extend to five hundred rupees.

XI. Minimum Rates of Wages Fixed.

Name of undertaking.....

Serial No.	Category of employees.	Minimum Wages.
------------	------------------------	----------------

XII. Name and Address of the Inspector(s).

Name	Address.
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[FORM X

Register of wages

[Rule 26(1)]

Name of the Establishment.....

Place

Name of the worker	Wage period	Minimum rates of wages payable	Dates on which over-time worked	Gross Wages payable	Deduction if any	Actual wages paid	Signature or thumb impression of the employee

THE MINIMUM WAGES (CENTRAL ADVISORY BOARD) RULES, 1949.¹

PRELIMINARY

1. These rules may be called the Minimum Wages (Central Advisory Board) Rules, 1949.

2. *Definition.*—In these rules, unless there is anything repugnant in the subject or context,

(i) "the Act" means the Minimum Wages Act, 1948 (XI of 1948);

(ii) "Board" means the Central Advisory Board constituted under Section 8 of the Act;

(iii) "Chairman" means the Chairman of the Central Advisory Board; and

(iv) "Member" means a member of the Central Advisory Board.

3. *Constitution of the Central Advisory Board.*—The Board shall consist of the following members, to be nominated by the Central Government, namely:—

(i) a Chairman;

(ii) five independent members, of whom two at least shall be officers of the Central Government, one of whom shall be nominated as the Vice-Chairman of the Board, and one at least shall be an official member representing the Chief Commissioners' Provinces² in rotation;

(iii) one independent member representing each of the Governor's Provinces³;

(iv) fifteen members representing employers in the scheduled employments; and

(v) fifteen members representing employees in the scheduled employments.

4. *Term of office of members.*—(1) Subject to the provisions of these rules, the term of office of members, other than official members, shall be two years commencing from the date of their appointment;

Provided that a member shall, notwithstanding the expiry of the said period of two years, continue to hold office until the appointment of his successor.

(2) A member nominated to fill a casual vacancy shall hold office, only so long as the member in whose place he is nominated would have been entitled to hold office if the vacancy had not occurred.

(3) The official members shall hold office until replaced by others.

5. *Eligibility for renomination.*—An outgoing member shall be eligible for renomination.

¹ See Notification No. LWI-24(13), d/- 25.10.49, published in Gazette of India, d/- 5.11.49, Pt. I-Sec. 3, p. 1532.

² Read now "Part C States" for "Chief-Commissioners' Provinces".

³ Read now "Part A States" for "Governors' Provinces".

6. Resignation.—(1) A member other than the Chairman may resign his office by a letter in writing addressed to the Chairman.

(2) The Chairman may resign his office by a letter addressed to the Central Government.

(3) A member shall be deemed to have vacated his office—

(i) if he is declared to be of unsound mind by a competent court; or

(ii) if he is an undischarged insolvent; or

(iii) if before or after the commencement of the Act, he has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude.

(4) The Central Government may cancel the nomination of a member if, in its opinion, he has ceased to represent the interest on whose behalf he was nominated.

7. Cessation and restoration of membership.—(1) If a member fails to attend three consecutive meetings of the Board, he shall cease to be a member thereof.

(2) A person, who ceases to be a member under sub-rule (1) shall be informed of such cessation by a letter sent to him by registered post within fifteen days from the date of cessation. The letter shall indicate that if he desires restoration to membership, he may apply in writing in this behalf to the Chairman within thirty days from the receipt of such letter. Every such application shall contain the reason for the failure to attend three consecutive meetings. The application for restoration to membership, if received, shall be placed before the Board and if a majority of members present at the meeting are satisfied that the reasons for failure to attend three consecutive meetings are adequate, the member shall be restored to membership immediately after a resolution to that effect is adopted.

***[8. Meetings.**—The Chairman may, whenever he thinks fit and shall within fifteen days of the receipt of a requisition in writing from not less than one-half of the members, call a meeting of the Board.]

9. Notice of meetings.—(1) The Chairman shall decide the date, time and place of every meeting. Ordinarily, notice of not less than 21 days from the date of posting thereof shall be given to every member for each meeting of the Board. A list of business proposed to be transacted at the meeting shall be attached with the notice.

(2) If it is necessary to convene an emergent meeting at least 10 days notice shall be given to every member.

10. Chairman of the meeting.—The Chairman or, in his absence the Vice-Chairman shall preside at the meetings. In the event of the absence of both the Chairman and Vice-Chairman, the members present may elect one amongst themselves to preside at the meetings.

11. Quorum.—No business shall be transacted at any meeting unless at least fifteen members are present:

* Substituted for former rule 8 by Notification No. S.R.O. 1257, d/- 9.7.52: vide Gazette of India, d/- 19.7.52, Pt. II-Sec. 3, p. 1129.

Provided that if at any meeting less than fifteen members are present, the Chairman may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending it.

12. Disposal of business.—Any business which requires consideration by the Board shall be considered at a meeting thereof:

Provided that the Chairman may, if he thinks fit, direct that the necessary papers may be referred for opinion to all members:

Provided further that the decision on any question which is so referred shall be acted upon only if it is supported by not less than a two-thirds majority of the members of the Board. Where there is no such majority or where the Chairman so decides the question shall be considered at a duly convened meeting of the Board.

13. Method of voting.—Voting shall ordinarily be by show of hands. If any member asks for voting by ballot, or if the Chairman so decides, the voting shall be by secret ballot and shall be held in such manner as the Chairman may desire.

14. Decision by majority.—Every question at a meeting of the Board shall be decided by a majority of the votes of the members present and voting:

Provided that in the case of equality of votes, the Chairman or the person presiding shall have a casting vote.

15. Proceedings of the meeting.—(1) The proceedings of each meeting showing *inter alia* the names of the members present thereat shall be forwarded to each member of the Board, to the Central and Provincial Governments and to all State Governments where the Act is in force, as soon after the meeting as possible and, in any case, not less than seven days before the next meeting.

(2) The minutes of each meeting shall be confirmed with such modifications as may be considered necessary at the next meeting.

THE PAYMENT OF WAGES ACT, 1936.

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9. Deductions for absence from duty.
10. Deductions for damage or loss.
11. Deductions for services rendered.
12. Deductions for recovery of advances.
13. Deductions for payments to co-operative societies and insurance schemes.

* Read now "State" for "Provincial".

* Read now "Governments of Part B States" for "State Governments".

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25. Display by notice of abstracts of the Act.
26. Rule-making power.

THE PAYMENT OF WAGES ACT, 1936.

ACT NO. IV OF 1936¹

[23rd April, 1936.]

An Act to regulate the payment of wages to certain classes of persons employed in industry.

WHEREAS it is expedient to regulate the payment of wages to certain classes of persons employed in industry;

It is hereby enacted as follows:—

1. *Short title, extent, commencement and application*:—(1) This Act may be called the Payment of Wages Act, 1936.

²[(2) It extends to the whole of India ³[except the State of Jammu and Kashmir].]

(3) It shall come into force on such ⁴date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It applies in the first instance to the payment of wages to persons employed in any factory and to persons employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration.

¹ For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 20; and for Report of Select Committee, see *ibid*, p. 77.

The Act has been extended to Berar by the Berar Laws Act, 4 of 1941.

The Act in its application to the State of Bombay has been amended by the Payment of Wages (Bombay Amendment) Act, 1933 (Bom. LXII of 1933).

Provisions of the Act except sub-sec. (4) of sec. 8 were extended w.e.f. 15.6.51 to mines other than coal mines, to which the then Indian Mines Act 3 of 1923 applied, (see Notification No. S.R.O. 459, d/- 20.5.51, pub. in Gazette of India, d/- 31.3.51, Pt. II-Sec. 3, p. 573). Thereafter, by Notification No. S.R.O. 1349, d/- 29.7.52 (see Gazette of India, d/- 28.5.52, Pt. II-Sec. 3, p. 1171), the Act has been applied to mines (to which the Mines Act, 1952 applies) except sub-sec. (4) of sec. 8 (which at present extends to certain parts of India) in the rest of India except Jammu and Kashmir.

Bihar Government by Notification No. W3-1012/52-L55, d/- 19.4.52 has extended the provisions of the Act to the Tea Plantations in the State of Bihar. (see Bihar Gazette, Extraordinary, d/- 25.4.52).

² Subs. for former sub-sec. (2) by L.A.O., 1950.

³ Subs. for "except Part B States" by the Part B States (Laws) Act 3 of 1951.

⁴ 28th March, 1937; see Gazette of India, 1937, Pt. I, p. 626.

(5) The ²[State Government] may, after giving three months' notice of its intention of so doing, by notification in the Official Gazette, extend the provisions of the Act or any of them to the payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments.

(6) Nothing in this Act shall apply to wages payable in respect of a wage-period which, over such wage-period, average two hundred rupees a month or more.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(i) "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934¹ (XXV of 1934);

(ii) "industrial establishment" means any—

(a) tramway or motor omnibus service;

(b) dock, wharf or jetty;

(c) inland steam-vessel;

(d) mine, quarry or oil-field;

(e) plantation;

(f) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

(iii) "plantation" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea, and on which twenty-five or more persons are employed for that purpose;

(iv) "prescribed" means prescribed by rules made under this Act;

(v) "railway administration" has the meaning assigned to it in clause (6) of section 3 of the Indian Railways Act, 1890 (IX of 1890); and

(vi) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include—

(a) the value of any house-accommodation, supply of light, water, medical attendance or other amenity, or of any service excluded by general or special order of the ²[State Government];

(b) any contribution paid by the employer to any pension fund or provident fund;

¹ Subs. for "Provincial Government" by L.A.O., 1950.

² See now the Factories Act 63 of 1948, sec. 2, cl. (m).

(c) any travelling allowance or the value of any travelling concession;

(d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(e) any gratuity payable on discharge.

3. Responsibility for payment of wages.—Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act:

Provided that, in the case of persons employed (otherwise than by a contractor)—

(a) in factories, if a person has been named as the manager of the factory under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934¹ (XXV of 1934),

(b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment,

(c) upon railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned,

the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall be responsible for such payment.

Bombay Amendment.—In section 3, for the proviso the following shall be substituted, namely:—

"Provided that, in the case of persons employed (otherwise than by a contractor)—

(a) in factories, if a person has been named as the manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948, then the person so named and the employer jointly and severally;

(b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment, then the person so responsible and the employer jointly and severally;

(c) upon railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned, then the person so nominated, shall be responsible for such payment". [*Vide* the Payment of Wages (Bombay Amendment) Act, 1952 (Bom. 62 of 1953).]

4. Fixation of wage-periods.—(1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

5. Time of payment of wages.—(1) The wages of every person employed upon or in—

(a) any railway, factory or industrial establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry to the seventh day,

(b) any other railway, factory or industrial establishment, shall be paid before the expiry of the tenth day.

¹ See now the Factories Act 63 of 1948, sec. 7, sub-sec. (1), cl. (f).

after the last day of the wage-period in respect of which the wages are payable.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(3) The ²[State Government] may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) from the operation of this section in respect of the wages of any such persons or class of such persons.

(4) All payments of wages shall be made on a working day.

6. *Wages to be paid in current coin or currency notes.*—All wages shall be paid in current coin or currency notes or in both.

Bombay Amendment.—In section 6, the following proviso shall be added, namely:—

"Provided that when the amount of any bonus payable to an employed person exceeds an amount equal to one-fourth of his earnings (exclusive of dearness allowance) for the year to which the bonus relates, such excess shall be paid or invested in the manner prescribed". (*Fide Bom. Act 62 of 1953*).

7. *Deductions which may be made from wages.*—(1) Notwithstanding the provisions of sub-section (2) of section 47 of the Indian Railways Act, 1890 (IX of 1890), the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act.

Explanation.—Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:—

- (a) fines;
- (b) deductions for absence from duty;
- (c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;
- (d) deductions for house-accommodation supplied by the employer;
- (e) deductions for such amenities and services supplied by the employer as the ²[State Government] may, by general or special order, authorise;

Explanation.—The word "services" in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment.

(f) deductions for recovery of advances or for adjustment of over-payments of wages;

(g) deductions of income-tax payable by the employed person;

² Subs. for "Provincial Government" by I.A.O., 1950.

(h) deductions required to be made by order of a Court or other authority competent to make such order;

(i) deductions for subscriptions to, and for repayment of advances from, any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies or any recognised provident fund as defined in section 58A of the Indian Income-tax Act, 1922 (XI of 1922), or any provident fund approved in this behalf by the ²[State Government], during the continuance of such approval;

(j) deductions for payments to co-operative societies approved by the ²[State Government] or to a scheme of insurance maintained by the Indian Post Office; and

(k) deductions, made with the written authorisation of the employed person, in furtherance of any War Savings Scheme, approved by the ²[State Government], the purchase of securities of the Government of India or the Government of the United Kingdom.

8. *Fines*.—(1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the ²[State Government] or of the prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage period on any employed person shall not exceed an amount equal to half an anna in the rupee of the wages payable to him in respect of that wage-period.

(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed;

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

Explanation.—When the persons employed upon or in any railway, factory or industrial establishment are part only of a staff employed under the same management, all such realisations may be credited to a

² Subs. for "Provincial Government" by L.A.O., 1950.

common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

9. Deductions for absence from duty.—(1) Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by the ^a[State Government], if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

Explanation.—For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work.

10. Deductions for damage or loss.—(1) A deduction under clause (c) or sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person and shall not be made until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

11. Deductions for services rendered.—A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person unless the house-accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation, amenity or service supplied and, in the case of a deduction under the said clause (e), shall be subject to such conditions as the ^a[State Government] may impose.

12. Deductions for recovery of advances.—Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:—

^a Subs. for "Provincial Government" by L.A.O., 1950.

(a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses;

(b) recovery of advances of wages not already earned shall be subject to any rules made by the ¹[State Government] regulating the extent to which such advances may be given and the instalments by which they may be recovered.

13. Deductions for payments to co-operative societies and insurance schemes.—Deductions under clause (j) and clause (k) of sub-section (2) of section 7 shall be subject to such conditions as the ²[State Government] may impose.

14. Inspectors.—(1) An Inspector of Factories appointed under sub-section (1) of section 10 of the Factories Act, 1934 (XXV of 1934)*, shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

(2) The ³[State Government] may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies.

(3) The ³[State Government] may, by notification in the Official Gazette, appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and industrial establishments in respect of which they shall exercise their functions.

(4) An Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation or payment of wages and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Act.

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.—(1) The ²[State Government] may, by notification in the Official Gazette, appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area.

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting

* Suba. for "Provincial Government" by L.A.O., 1950.

² See now the Factories Act 63 of 1948, sec. 8.

with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter:

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

(a) if the authority is a Magistrate, by the authority as if it were fine imposed by him as Magistrate, and

(b) if the authority is not a Magistrate, by any Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

Bombay Amendment.—(A) In section 15,—

(a) the following amendments were made by Bom. Act 62 of 1953:—

(1) In sub-section (1), after the words "Civil Court" the words and figures "or of a Labour Court constituted under the Bombay Industrial Relations Act, 1946", shall be inserted;

(2) in sub-section (2), in both the provisos, for the words "six months" the words "one year" shall be substituted;

(3) in sub-section (3), for the words "ten rupees" the words "twenty-five rupees" shall be substituted;

(4) after sub-section (3) the following shall be inserted, namely:—
 "(3A) Where at any stage of an application under sub-section (2) the authority, upon report made to it and after hearing such employer or other person is satisfied that it is necessary so to do in order that the satisfaction of any direction that may be given under sub-section (3) is not delayed or defeated, the authority may order the conditional attachment of the property which may be liable for the satisfaction of such direction, unless such employer or other person either deposits with the authority an adequate sum sufficient to satisfy the claim or gives security for a like amount.

An attachment made under this sub-section shall have the same effect as if made by a competent Civil Court".

(5) for sub-section (4), the following shall be substituted, namely:—

"(4) If the authority hearing any application under this section is satisfied,—

(i) that the application was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application;

(ii) that, in any case in which compensation is directed to be paid under sub-section (2), the applicant ought not to have been compelled to seek redress under this section, the authority may direct that a penalty not exceeding fifty rupees be also paid by the employer or other person responsible for the payment of wages. The amount of such penalty when paid or recovered shall be credited to the State Government."

(h) for sub-section (5), the following sub-section was substituted by the Payment of Wages (Bombay Am.) Act, 1954 (Bom. LXX of 1954):—

"(5) Any amount directed to be paid under this section may be recovered by the authority as an arrear of land revenue and the authority shall for that purpose be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890".

(B) After section 15, the following section was inserted by Bom Act 62 of 1953:—

"15A. *Liability for payment of court-fees.*—(1) In any proceedings under section 15, the applicant shall not be liable to pay any court-fees (other than fees payable for service of process) in respect of such proceedings;

Provided that when the application is presented by an Inspector he shall not be liable to pay the process fees also.

(2) Where the applicant succeeds in such proceedings, the authority hearing the application shall calculate the amount of court fees which would have been payable by the applicant but for sub-section (1) and direct the employer or other person responsible for the payment of wages under section 3 to pay such amount to the State Government. Such amount shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue."

16. *Single application in respect of claims from unpaid group.*—

(1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (2) of section 15 shall be ten rupees per head.

(3) The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belong-

ing to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

17. Appeal.—(1) An appeal against a direction made under sub-section (3) or sub-section (4) of section 15 may be preferred, within thirty days of the date on which the direction was made, in a Presidency town before the Court of Small Causes and elsewhere before the District Court—

(a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees, or

(b) by an employed person, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees, or

(c) by any person directed to pay a penalty under sub-section (4) of section 15.

(2) Save as provided in sub-section (1), any direction made under sub-section (3) or sub-section (4) of section 15 shall be final.

Bombay Amendment.—(a) In section 17,—

(1) to sub-section (1), the following proviso shall be added, namely:—

Provided that no appeal by an employer or other person responsible for the payment of wages under section 3, under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the authority to the effect that the appellant has deposited with it the amount payable under the order appealed against".

(2) in sub-section (2), after the brackets and figure "4" the words, brackets, figure and letter "or any order made under sub-section (3A)" shall be inserted;

(3) after sub-section (2), the following sub-section shall be added, namely,—

"(3) The provisions of section 5 of the Indian Limitation Act, 1908, shall be applicable to appeals under this section". (*Vide Bom. Act 62 of 1951*).

(b) After sec. 17, the following section was inserted by the Payment of Wages (Bombay Am.) Act, 1954 (Bom. LXX of 1954):—

"17-A. Provisions of section 15-A to apply to appeals preferred under section 17 with modification.—When an appeal is preferred under section 17 by a person making an application under section 13, the provisions of section 15-A shall *mutatis mutandis* apply, with the modification that such person, not being an Inspector, shall pay court-fees of an amount of five rupees, but that such amount shall be refunded to him in the event of his succeeding in the appeal."

18. Powers of authorities appointed under section 15.—Every authority appointed under sub-section (1) of section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

19. Power to recover from employer in certain cases.—When the authority referred to in section 15 or the Court referred to in section 17 is unable to recover from any person (other than an employer) responsible under section 3 for the payment of wages any amount directed by such authority under section 15 or section 17 to be paid by such person,

the authority shall recover the amount from the employer of the employed person concerned.

20. Penalty for offences under the Act.—(1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely, section 5 and sections 7 to 13, both inclusive, shall be punishable with fine which may extend to five hundred rupees.

(2) Whoever contravenes the provisions of section 4, section 6 or section 25 shall be punishable with fine which may extend to two hundred rupees.

Bombay Amendment.—In sec. 20, in sub-sec. (1), for the words "five hundred rupees" substitute the words "two thousand rupees". (*Fide Bom. Act 62 of 1955*).

21. Procedure in trial of offences.—(1) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1) of section 20, unless an application in respect of the facts constituting the offence has been presented under section 15 and has been granted wholly or in part and the authority empowered under the latter section or the appellate Court granting such application has sanctioned the making of the complaint.

(2) Before sanctioning the making of a complaint against any person for an offence under sub-section (1) of section 20, the authority empowered under section 15 or the appellate Court, as the case may be, shall give such person an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to—

(a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment.

(3) No Court shall take cognizance of a contravention of section 4 or of section 6 or of a contravention of any rule made under section 26 except on a complaint made by or with the sanction of an Inspector under this Act.

(4) In imposing any fine for an offence under sub-section (1) of section 20 the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

Bombay Amendment.—In section 21,—

(1) in sub-section (1), for the words "and the authority empowered under the latter section or the appellate Court granting such application" the words "by the authority or the appellate Court and the State Government or any officer authorised by it in this behalf" shall be substituted;

(2) in sub-section (2),—

(i) for the words and figures "the authority empowered under section 15 or the appellate Court", the words "the State Government or the officer authorised by it in this behalf", shall be substituted;

(ii) for the words "the authority or Court" the words "the State Government or the authorised officer" shall be substituted. (*Vide* Bam. Act 62 of 1951.)

22. Bar of suits.—No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed—

(a) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17; or

(b) has formed the subject of a direction under section 15 in favour of the plaintiff; or

(c) has been adjudged, in any proceeding under section 15, not to be owed to the plaintiff; or

(d) could have been recovered by an application under section 15.

23. Contracting out.—Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

24. Application of Act to ¹[railways], mines and oilfields.—The powers by this Act conferred upon the ²[State Government] shall, in relation to ³[railways], mines and oilfields, be powers of the Central Government.

25. Display by notice of abstracts of the Act.—The person responsible for the payment of wages to persons employed in a factory shall cause to be displayed in such factory a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed in the factory, as may be prescribed.

26. Rule-making power.—(1) The ¹[State Government] may make rules² to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17.

(2) The ¹[State Government] may, by notification in the Official Gazette, make rules³ for the purpose of carrying into effect the provisions of this Act.

¹ Subs. by I.A.O., 1950, for "Federal Railways (within the meaning of the Government of India Act, 1935)".

² Subs. for "Provincial Government" by I.A.O., 1950.

³ For the Payment of Wages (Procedure) Rules, 1937, see Gazette of India, Pt. I, pp. 303-312; see also *post*.

⁴ For the Payment of Wages (Railways) Rules, 1938, see Government of India Dept. of Labour Notification No. L3070 (1), d/- 5.5.38; see also *post*.

For rules under this Act framed by several State Governments for their respective areas, see the Bombay Payment of Wages Rules, 1937, the Madhya Bharat Payment of Wages Rules, 1952, the Madras Payment of Wages Rules, 1937, the Orissa Payment of Wages Rules 1936, the Pepsu Payment of Wages (Procedure) Rules, 1952, the Punjab Payment of Wages Rules, 1937, the Assam Payment of Wages Rules, 1937, the Madras Payment of Wages (Unclaimed Amounts) Rules, 1949, the Madhya Bharat Payment of Wages (Procedure) Rules, 1952, the Bengal Payment of Wages Rules, 1937, the Bihar Payment of Wages Rules, 1937, the C.P. Payment of Wages Rules, 1936, the Berar Payment of Wages (Procedure) Rules, 1936, the U.P. Payment of Wages Rules, 1936.

(3) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may—

(a) require the maintenance of such records, registers, returns and notices as are necessary for the enforcement of the Act and prescribe the form thereof;

(b) require the display in a conspicuous place on premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises;

(c) provide for the regular inspection of the weights, measures and weighing machines used by employers in checking or ascertaining the wages of persons employed by them;

(d) prescribe the manner of giving notice of the days on which wages will be paid;

(e) prescribe the authority competent to approve under sub-section (1) of section 8 acts and omissions in respect of which fines may be imposed;

(f) prescribe the procedure for the imposition of fines under section 8 and for the making of the deductions referred to in section 10;

(g) prescribe the conditions subject to which deductions may be made under the proviso to sub-section (2) of section 9;

(h) prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended;

(i) prescribe the extent to which advances may be made and the instalments by which they may be recovered with reference to clause (b) of section 12;

(j) regulate the scales of costs which may be allowed in proceedings under this Act;

(k) prescribe the amount of court-fees payable in respect of any proceedings under this Act; and

(l) prescribe the abstracts to be contained in the notices required by section 25.

(4) In making any rule under this section the '[State Government] may provide that a contravention of the rule shall be punishable with fine which may extend to two hundred rupees.

(5) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall not be less than three months from the date on which the draft of the proposed rules was published.

Bombay Amendment.—In section 26, in sub-section (3),—

(1) after clause (d) the following shall be *inserted*, namely:—

"(da) prescribing the manner in which the excess amount of the bonus shall be paid or invested under section 6;"

(2) in clause (k),—

(a) for the word "court-fees" the words "ad valorem or fixed court-fees" shall be *substituted*;

(b) the word "and" shall be *deleted*.

* Subs. for "Provincial Government" by L.A.O., 1950.

'THE PAYMENT OF WAGES (²[RAILWAYS]) RULES, 1938.

1. Title and application.—(1) These rules may be called the Payment of Wages (²[Railways]) Rules, 1938.

³[(1d) They extend to the whole of India except the State of Jammu and Kashmir.]

(2) These rules apply in respect of the payment of wages to persons employed upon any ⁴[railway] (including factories) by or under a Railway Administration or by a contractor employing, on the average, 20 or more persons daily in any one month in the preceding 12 months.

2. Definitions.—In these rules, unless there is anything repugnant in the subject or context,—

(a) "the Act" means the Payment of Wages Act (IV of 1936);

(b) "the Authority" means the authority appointed under sub-section (1) of section 15 of the Act;

(c) "the Court" means the court mentioned in sub-section (1) of section 17 of the Act;

(d) "deduction for breach of contract" means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9;

(e) "deduction for damage or loss" means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of section 7;

[* * * * *]

(g) "Form" means a form appended to these rules;

(h) "Inspector" means an Inspector authorised by or under section 14 of the Act;

(i) "person employed" does not include any person to the payment of whose wages the Act does not apply;

(j) "section" means a section of the Act;

(k) "paymaster" means the Railway Administration or other person or persons who may be nominated as such by the Railway Administration under clause (c) of section 3; and in the case of a person employed by a contractor, the contractor;

(l) "the Supervisor" means the Supervisor of Railway Labour appointed by notification in the Gazette of India under sub-section (1) of section 71G of the Indian Railways Act (LX of 1890);

(m) "contractor" means a person fulfilling, either directly or through a sub-contractor, a contract with a Railway Administration;

¹ See Dept. of Labour Notification No. L3070(1), dated 5th May, 1938.

The Rules have been rescinded in their application to Berar, *vide* Notification No. S.R.O. 1592, d/- 1.8.52, pub. in Gazette of India, d/- 9.8.52, Pt. II-Sec. 3, p. 1231.

² Subs. for "Federal Railways" by Notification No. S.R.O. 429, d/- 4.3.52, *see* Gazette of India, d/- 2.5.52, Pt. II-Sec. 3, p. 137.

³ Sub-rule (1A) inserted by *ibid.*, *see ibid.*

⁴ Subs. for "Federal railway" by *ibid.*, *see ibid.*

⁵ Cl. (f) defining "Federal Railway" omitted by *ibid.*, *see ibid.*

(n) "employer" means the Railway Administration, and in the case of persons employed by a contractor, the contractor;

(o) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

3. Register of Fines.—(1) On any railway where the employer has obtained approval under sub-section (1) of section 8 to a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of Fines in Form I.

(2) At the beginning of Register of Fines there shall be entered serially numbered the approved purpose or purposes on which the fines realized are to be expended.

(3) When any disbursements are made from the fines realized, a deduct entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved the entry of the disbursement shall also indicate the purpose for which it is made.

4. Register of deductions for damage or loss.—On every railway in which deductions for damage or loss are made the paymaster shall maintain the Register required by sub-section (2) of section 10 in Form II.

5. Register of Wages.—A Register of Wages shall be maintained by every employer and may be kept in such form as the paymaster finds convenient but shall include the following particulars:—

(a) the gross wages of each person employed for each wage period;

(b) all deductions made from those wages, with an indication, in each case, of the clause of sub-section (2) of section 7 under which the deduction is made;

(c) the wages actually paid to each person employed for each wage period and the date of payment.

6. Maintenance of Registers.—The registers required by rules 3, 4 and 5 shall be preserved for 12 months after the date of the last entry made in them.

The registers shall normally be maintained in English, but where they are maintained in any other language than English, a true translation thereof in English shall be available.

7. Places for displaying notices.—The Supervisor shall specify such place or places on the railway, other than factories, as he thinks fit (hereinafter referred to as "specified place" or "specified places") for the display of notices, lists and rules under rules 8, 12 and 16.

8. Notice of dates of payment.—The paymaster shall display, in a conspicuous place at or near the main entrance of every factory in his jurisdiction, and at the specified place or specified places, a notice, in English and in the language of the majority of the persons employed at such factories or places showing for not less than two months in advance, the days on which wages are to be paid.

9. Prescribed authority.—The Supervisor shall be the authority competent to approve, under sub-section (1) of section 8, acts and omissions in respect of which fines may be imposed and, under sub-section (8) of section 8, the purposes to which the proceeds of fines shall be applied.

10. Application in respect of fines.—Every employer requiring the power to impose fines in respect of any acts and omissions on the part of the employed persons shall send to the Supervisor—

(a) a list, in English, in duplicate, clearly defining such acts and omissions;

(b) in cases where the Railway Administration himself does not intend to be the sole authority empowered to impose fines, a list, in duplicate, showing, by virtue of office, such of his officers as may pass orders imposing fines and the class of establishment on which any such officer may impose fine.

11. Approval of list of acts and omissions.—The Supervisor may, on receipt of the list prescribed in sub-rule (a) of rule 10, and after such inquiry as he considers necessary, pass orders in respect of the list referred to in clause (a) of rule 10 either—

(a) disapproving the list, or

(b) approving the list either in its original form or as amended by him, in which case such list shall be deemed to have been approved under sub-section (1) of section 8;

Provided that no order disapproving or amending the list shall be passed unless the employer shall have been given an opportunity of showing cause orally or in writing against such order.

12. Posting of list.—The employer shall display at or near the main entrance of every factory, and at the specified place or specified places, a copy in English, together with a literal translation thereof in the language of the majority of the persons employed at such factory or place, of the list of acts and omissions approved by the authority prescribed under Rule 9.

13. Persons authorised to impose fines.—(1) No fine may be imposed upon a person, employed by a Railway Administration, by any person other than the Railway Administration, or by a person holding an appointment named in the list referred to in clause (b) of Rule 10.

(2) In the case of persons employed by a contractor, no fines may be imposed by any person other than the contractor:

Provided that a contractor who runs more than one establishment in two or more localities, and who employs not less than 50 persons in one locality, may with the approval of the Supervisor, delegate his power to fine to his representative in that locality.

14. Procedure in imposing fines and deductions.—(1) No fines shall be imposed on and no deductions made from a person employed by a Railway Administration except in accordance with the procedure laid

down in the rules and regulations in force on the Railway Administration, and no fine shall be imposed or deduction made until the employed person has been given an opportunity of showing cause against such imposition or deduction.

(2) No fine shall be imposed on and no deduction for damage or loss shall be made from the wages of a person employed by a contractor until the person authorised to impose the fine or make the deduction has explained personally to the said person the act or omission or damage or loss, in respect of which the fine or deduction is proposed to be imposed and the amount of the fine or deduction which it is proposed to impose and has heard his explanation in the presence of at least one other person.

15. *Information to paymaster.*—The person imposing a fine or directing the making of a deduction for damage or loss shall (unless such person is a paymaster) at once inform the paymaster of all particulars necessary for the completion of the register prescribed in Rule 3 or Rule 4, as the case may be.

16. *Deductions under the proviso to sub-section (2) of section 9.*—
(1) No deduction under the proviso to sub-section (2) of section 9 shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No such deduction shall be made from the wages of any employed person unless:—

(a) there is provision in writing in the terms of the contract of employment requiring him to give notice of the termination of his employment; and

(i) the period of this notice does not exceed fifteen days or the wage-period, whichever is less; and

(ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment;

(b) this rule has been displayed in English and in the language of the majority of the employed persons at or near the main entrance of the factory, and at the specified place or specified places, concerned, and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made;

(c) a notice has been displayed at or near the main entrance of the factory, and at the specified place or specified places, concerned, giving the names of the persons from whom the deduction is proposed to be made, the number of days' wages to be deducted and the conditions (if any) on which the deduction will be remitted:

Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections or factories of the railway, it shall be sufficient, in lieu of giving the names of the persons in such departments, sections, or factories affected.

(3) No such deduction shall exceed the wages of the person employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2), no such deduction shall be made from any person who has complied with such conditions.

17. Annual Return.—Every employer on whom during the year ending the 31st March any fines have been imposed or any deductions for breach of contract or for damage or loss have been made from wages, shall send a return in Form III so as to reach the Supervisor not later than the 15th of May following the end of the year to which it relates.

18. Advances to persons employed by a contractor.—(1) An advance of wages not already earned shall not ordinarily exceed the amount equal to two calendar months' wages of the employed person. In exceptional cases the amount of such advance may, with the previous sanction of the Supervisor, be made to the extent of four calendar months' wages.

(2) The advance may be recovered in instalments by deductions from wages spread over not more than 12 months in the case of ordinary advance and 20 months in the case of special advance. In no case shall the amount of instalment exceed $\frac{1}{4}$ th of the wages earned in one month.

(3) The amounts of all advances sanctioned and the repayments thereof shall be entered in a register in Form V.

19. Procedure, costs and court fees.—The procedure to be followed by the authorities appointed under sub-section (1) of section 15 and the Courts mentioned in sub-section (1) of section 17, of the Act, the scales of costs which may be allowed in, and the amount of court-fees payable in respect of, proceedings under the Act to which these rules apply shall be such procedure, scales and amount as are from time to time prescribed by the State Government in the exercise of its powers under the Act in that behalf for the Authority or Court concerned.

20. Abstracts.—The Abstracts of the Act and of the rules made thereunder to be displayed under section 25 shall be in Form IV.

21. Penalties.—Any breach of rules 3, 4, 5, 6, 8, 12, 15 and 17 of these rules shall be punishable with fine which may extend to two hundred rupees.

FORM III

DEDUCTIONS FROM WAGES

Return for the year ending 31st March, 19

1. Name of railway and postal address of headquarters
2. Total number of persons employed { Children
{ Adults
3. Total wages paid
4. Number of cases and amounts realised as—

	No. of Cases.	Remarks.
(a) Fines ..		Rs.
(b) Deductions for damage or loss ..		
(c) Deductions for breach of contract ..		

4. Disbursements form fine fund—

Significance

Designation

Dated:

FORM IV

ABSTRACT OF THE PAYMENT OF WAGES ACT, 1936, AND
THE RULES MADE THEREUNDER*Whom the Act affects.*

1. The Act applies to the payment of wages to persons in this factory receiving less than Rs. 200 a month.

2. No employed person can give up by contract or agreement his rights under the Act.

Definition of Wages.

3. "Wages" means all remuneration payable to an employed person on the fulfilment of his contract of employment.

It includes bonus and any sum payable for want of a proper notice of discharge.

It excludes—

(a) the value of house-accommodation, supply of light, water, medical attendance, or other amenity or of any service excluded by the Central Government;

(b) the employer's contribution to a pension or provident fund;

(c) travelling allowance or concession or other special expenses entailed by the employment;

(d) any gratuity payable on discharge.

Responsibility for and Method of Payment.

4. The Manager of the factory is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs.

5. Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month.

6. Wages shall be paid on a working day within 7 days of the end of the wage-period (or within 10 days if 1,000 or more persons are employed).

The wages of person discharged shall be paid not later than the second working day after his discharge.

7. Payments in kind are prohibited.

Fines and Deductions.

8. No deductions shall be made from wages except those authorised under the Act (see paragraphs 9-15 below).

9. (1) Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Supervisor, specify by a notice displayed at or near the main entrance of the factory and after giving the employed person an opportunity for explanation.

(2) Fines—

(a) shall not exceed half-an-anna in the rupee;

(b) shall not be recovered by instalments, or later than sixty days of the date of imposition;

(c) shall be recorded in a register and applied to such purposes beneficial to the employed persons as approved by the Supervisor;

(d) shall not be imposed on a child.

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working, and such deductions must not exceed an amount which is in the same proportion to wages for the wage-period, as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but

(1) no deduction for breaking a contract can be made from a person under 15 or a woman,

(2) there must be a provision in writing which forms part of the contract of employment, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice,

(3) the above provision must be displayed at or near the main entrance of the factory,

(4) no deduction of this nature can be made until a notice that this deduction is to be made has been posted at or near the main entrance of the factory,

(5) no deduction must exceed the wages of the employed person for the period by which the notice he gives of leaving employment, is less than the notice he should give under his contract.

11. Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for

which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed person an opportunity for explanation.

12. Deductions can be made, equivalent to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) supplied by the employer, provided that these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of the Central Government.

13. (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advances given for travelling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster's discretion during employment.

14. Deductions can be made for subscription to and for repayment of advances from any recognised provident fund.

15. Deductions can be made for payments to co-operative societies approved by the Central Government or to the postal insurance, subject to any conditions imposed by the Central Government.

Inspections.

16. An Inspector can enter on any premises, and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

Complaints of deductions or delays

17. (1) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within six months to the Authority appointed by the State Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(2) Any legal practitioner, official of a registered trade union, Inspector under the Act, or other person acting with the permission of

the Authority can make the complaint on behalf of an employed person.

(3) A single application may be presented by, or on behalf of, any number of persons belonging to the same factory the payment of whose wages has been delayed.

Action by the Authority

18. The Authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

Appeal against the Authority

19. An appeal in the prescribed form against a direction made by the Authority may be preferred within 30 days in Madras, Bombay, Calcutta, to the Court of Small Causes and elsewhere to the District Court—

(a) by the paymaster if the total amount directed to be paid exceeds Rs. 300;

(b) by an employed person, if the total amount of wages withheld from him or his co-worker, exceeds Rs. 50;

(c) by a person directed to pay a penalty for a malicious or vexatious application.

Punishments for breaches of the Act.

20. Any one delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine up to Rs. 500, but only if prosecuted with the sanction of the Authority or the appellate Court.

21. The paymaster who—

(1) does not fix a wage-period, or

(2) makes payments in kind, or

(3) fails to display at or near the main entrance of the factory this Abstract in English and in the language of the majority of the employed persons, or

(4) breaks certain rules made under the Act,

is liable to a fine not exceeding Rs. 200.

A complaint to this effect can be made only by the Inspector, or with his sanction.

FORM V

Register of advances made to employed persons

Name of Contractor.....

Serial No.	Name.	Father's Name.	Department.	Date and amount of advance made.	Purpose(s) for which advance made.	Number of instalments by which advance to be repaid.	Postponements granted.	Date on which total amount repaid.	Remarks.
1	2	3	4	5	6	7	8	9	10

THE PAYMENT OF WAGES (²[MINES]) RULES, 1949.

1. Title and Application.—(1) These rules may be called the Payment of Wages (²[Mines]) Rules, 1949.

²[(2) These rules apply in respect of the payment of wages to persons employed either by the owner or by a contractor engaged by the owner in any mine, other than a manganese mine, to which the Indian Mines Act, 1923 (IV of 1923)⁴, applies.]

³[(3) They extend to the whole of India, except the State of Jammu and Kashmir.]

2. Definitions.—In these rules unless there is anything repugnant in the subject or context,—

¹ See Notification No. Fac. 52 (5), dated 15-7-49, pub. in Gazette of India, dated 23-7-49, Pt. I-Sec. 1, p. 1003.

² Subs. for "Coal Mines" by Notification No. S.R.O. 140 dated 21-1-52, see Gazette of India, dated 26-1-52, Pt. II-Sec. 3, p. 130.

³ Subs. for former sub-rule (2) by *ibid.*, see *ibid.*

⁴ Now the Mines Act, 1952 (XXXV of 1952).

⁵ Subs. for former sub-rule (3) by Notification No. S.R.O. 1117 dated 6-6-53, see Gazette of India, dated 13-6-53, Pt. II-Sec. 3, p. 863.

(a) "Act" means the Payment of Wages Act, 1935 (IV of 1936);

(b) "Authority" means the Authority appointed under sub-section (1) of section 15 of the Act;

(c) "Court" means the court mentioned in sub-section (1) of section 17 of the Act;

(d) "deduction for breach of contract" means a deduction made in accordance with the provisions of the proviso to sub-section (2) of the section 9;

(e) "deduction for damage or loss" means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of section 7;

(f) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine;

Provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals:]

(g) "Form" means a Form appended to these rules;

(h) "Inspector" means an inspector authorised by or under section 14 of the Act;

(i) "person employed" does not include any person to the payment of whose wages the Act does not apply;

(j) "Section" means a section of the Act;

(k) "paysmaster" means the employer or other person or persons who may be nominated as such by the employer under clause (b) of section 3 and includes a contractor;

(l) "employer" means the owner of the [mine] and includes the manager or any other person responsible under section 3 of the Act for the payment of wages, and a contractor;

(m) "contractor" means a person engaged under a contract by the owner of the [mine] for work on the [mine] and includes a sub-contractor;

(n) words and expressions defined in the Act shall have the same meaning as in the Act.

3. Register of fines.—(1) In any [mine] where the employer has obtained approval under sub-section (1) of section 8 to a list of

* Subs. for former cl. (f) be *ibid.*

* Subs. for "coal mine" by Notification No. S.R.O. 140, dated 21-1-52, see Gazette of India, dated 26-1-52, Pt. II-Sec. 3, p. 139.

acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register in Form I.

(2) At the beginning of the Register of Fines, there shall be entered serially numbered the approved purpose or purposes on which the fines realised are to be expended.

(3) When any disbursements are made from the fines realised, a deduct entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved, the entry of the disbursement shall also indicate the purpose for which it is made.

4. Register of deductions for damage or loss.—In every ¹[mine] in which deductions for damage or loss are made, the paymaster shall maintain the Register required by sub-section (2) of section 10, in Form II.

5. Register of Wages.—A register of Wages shall be maintained by every employer in Form III.

6. Maintenance of Registers.—(1) A register required to be maintained by rule 3, 4 or 5 shall be preserved for a period of three years commencing from the date of the last entry made therein.

(2) Every such register shall normally be maintained in English, but where it is maintained in any language other than English, a true translation thereof in English shall be available.

7. Places for displaying notices.—The Inspector shall specify such place or places in the ²[mine] as he thinks fit (hereinafter referred to as the "Specified place or places") for the display of notices, lists and rules under rules 8, 12 and 16.

8. Notice of dates of payment.—The paymaster shall display in a conspicuous place at or near the main entrance of the work place or places at the ³[mine] and at the specified place or places, a notice in English and in the language of the majority of the persons employed at such place or places showing (i) for not less than two months in advance the days on which wages are to be paid and (ii) the rates of wages and scales of allowances payable to persons employed in the ⁴[mine] concerned.

9. Prescribed authority.—The Inspector shall be the prescribed authority competent to approve, under sub-section (1) of section 8, acts and omissions in respect of which fine may be imposed and, under sub-section (8) of section 8, the purposes to which the fines realised may be applied.

¹ See Ln. 7 in pre-page.

10. Application in respect of fines.—Every employer requiring the power to impose fines in respect of any acts and omissions on the part of the employed persons shall send to the Inspector—

(a) a list, in English, in duplicate, clearly defining such acts and omissions ;

(b) cases where the employer himself does not intend to be sole authority empowered to impose fines, a list, in duplicate, showing by virtue of office or otherwise, such members of his staff as may pass orders imposing fines and the class of establishment on which any such member may impose a fine.

11. Approval of list of acts and omissions.—The Inspector may, on receipt of the list prescribed by clause (a) of rule 10, and after such enquiry as he considers necessary, pass orders in respect of the said list, either—

(a) disapproving the list, or

(b) approving the list in its original form or as amended by him, in which case such list shall be deemed to have been approved under sub-section (1) of section 8 :

Provided that no order disapproving or amending the list shall be passed unless the employer shall have been given an opportunity of showing cause in writing against such order.

12. Posting of list.—The employer shall display at or near the main entrance of the work place or places at the '[mine]' and at the specified place or places, a copy in English, together with a literal translation thereof, in the language of the majority of persons employed at such '[mine]' or place, of the list approved under rule 11.

13. Persons authorised to impose fines.—(1) No fine may be imposed upon a person employed in a '[mine]' by any person other than the employer or by a person included in the list referred to in sub-rule (b) of rule 10.

(2) In the case of persons employed by a contractor, no fines may be imposed by any person other than the contractor :

Provided that a contractor who runs more than one establishment in two or more localities, and who employs not less than 50 persons in one locality, may, with the approval of the Inspector, delegate his power to fine to his representative in that locality.

14. Procedure in imposing fines and deductions.—(1) No fine shall be imposed on and no deductions shall be made from the wages of any person employed in a '[mine]' except in accordance with the

procedure laid down in the rules and regulations in force in the mine, and no fine shall be imposed or deduction made from the wages until the employed person has been given an opportunity of showing cause against such imposition or deduction.

(2) No fine shall be imposed on and no deduction for damage or loss shall be made from the wages of a person employed by a contractor until the person authorised to impose the fine or make the deductions has explained personally to the said person the act or omission, or damage or loss in respect of which the fine or deduction is proposed to be imposed or made and the amount of the fine or deduction, which it is proposed to impose or make and has heard his explanation in the presence of at least one other person.

15. Information to the paymaster.—The person imposing a fine or directing the making of deduction for damage or loss shall (unless such person is the paymaster) at once inform the paymaster of all particulars necessary for the completion of the register prescribed by rule 3 or rule 4, as the case may be.

16. Deductions under the proviso to sub-section (2) of section 9.—(1) No deduction under the proviso to sub-section (2) of section 9 of the Act shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No such deduction shall be made from the wages of any employed person unless —

(a) there is a provision in writing in the terms of the contract of employment requiring him to give notice of the termination of his employment; and

(i) the period of the notice does not exceed fifteen days or the wage period, whichever is less; and

(ii) the period of the notice does not exceed the period of notice which the employer is required to give of the termination of the employment;

(b) this rule has been displayed in English and in the language of the majority of the employed persons at or near the main entrance of the work place or places at the '[mine], and at the specified place or places concerned, and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made;

(c) at least one week before such deduction is made, a notice has been displayed at or near the main entrance of the work place or places at the '[mine], and at the specified place or places con-

cerned, giving the names of the persons from whom deduction is proposed to be made, the number of days' wages to be deducted and the conditions (if any) on which the deduction will be remitted :

Provided that where the deduction is proposed to be made from all persons employed in any department or section of the '[mine], it shall be sufficient, in lieu of giving the names of the persons in such department or section of the '[mine], to specify the department or section affected.

(3) No such deduction shall exceed the wages of the person employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2), no such deduction shall be made from any person who has complied with such conditions.

17. Measurement of the amount of work done by piece workers.—In the case of piece-workers, the surveyor who measures the work for such workers, shall at the time of measurement, hand over to the miners a statement in writing containing the measurement figures immediately after taking the measurements in the presence of the workers concerned. A record of measurement shall also be maintained in a measurement book of permanent nature and at the close of the wage period a list of measurements shall be written up under the signature or thumb impression of the workers and a copy thereof shall be given to the workers also. In the case of disputes regarding measurements the surveyor shall, as far as possible, settle the dispute on the spot.

18. Annual return.—Every employer shall send a return in Form IV so as to reach the Inspector not later than the 15th of May following the end of the year to which it relates.

19. Advances to persons employed by a Contractor.—(1) An advance of wages not already earned shall not ordinarily exceed the amount equal to two calendar months' wages of the employed person. In exceptional circumstances the amount of such advance may, with the previous sanction of the Inspector, be made to the extent of four months' wages.

(2) The advance may be recovered in instalments by deductions from the wages spread over not more than twelve months in the case of an ordinary advance and twentyfour months in the case of an advance granted in exceptional circumstances. In no case shall the amount of an instalment exceed one-fourth of the wages earned in one month.

[†] See *l.c.* 7 in p. 889, *ante*.

(3) The amount of all advances sanctioned and the repayments thereof shall be entered in a register in Form V which shall be maintained in English and in the language spoken by the majority of workers.

20. Procedure, costs and court fees.—The procedure to be followed by the authorities appointed under sub-section (1) of section 15 and the Courts mentioned in sub-section (1) of section 17 of the Act, the scales of costs which may be allowed in, and the amount of court fees payable in respect of proceedings under the Act to which these rules apply shall be such procedure, scales and amounts as are from time to time prescribed by the State Government in the exercise of its powers under the Act in that behalf for the authority or court concerned.

21. Abstracts.—The Abstracts of the Act and of the rules made thereunder to be displayed under section 25 shall be in Form VI.

22. Penalties.—Any breach of Rule 3, 4, 5, 6, 8, 12, 15 or 18 of these rules shall be punishable with fine which may extend to two hundred rupees.

FORM I.

REGISTER OF FINES.

* [Mine],

.....

.....

Serial No.	Name.	Father's Name.	Occupation.	Act or omission for which fine imposed.	Whether workman allowed cut against fine or not. If so, enter date.	Rate of wages.	Date and amount of fine imposed.	Date on which fine realised.	Remarks.
1	2	3	4	5	6	7	8	9	10

* See in 7 in p. 889, ante.

FORM III.

REGISTER OF WAGES.

All entries to be made in English.

Entries are to be made against each individual worker, and not for a gang of workmen.

Entries for each category of workers to be made separately.

Serial No.	Identification Account number allotted by the Coal Mines Provident Fund Commissioner.	Number.	Names*.	Occupation.	Days worked† No. of units worked S: M: P: W: Th: F: S: 1, 2, 3... 28, 29, 30, 31	Total.	Rate of basic wages.	Basic Wages.	
								Ordinary.	Special.
1	2	3	4	5	6	7	8	9	

Lead and Lift.		Dearness Allowance.		Other cash payments.		Total amount earned.		Workmen's contribution to Provident Fund.		Employer's contribution to Provident Fund.		Total deduction made.		Net amount payable.		Signature or thumb impression or mark‡	
10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27

*In the case of time-rated workers only attendance or absence should be marked.

†In the case of piece workers the number of units worked should be entered specifying the unit of work. Example: Tubs or Khudis or Gades of coal raised or loaded with its equivalent capacity.

‡In the case of monthly paid workers.

§If the thumb impression is not taken the signature of the person supervising the payment should be taken.

FORM IV.

DEDUCTION FROM WAGES.

Return for the year ending 31st March 194 .

1. Name of [Mine] and Postal Address.
2. Total number* of persons employed. $\left. \begin{array}{l} \text{Men} \\ \text{Women} \end{array} \right\}$
3. Total wages paid. $\left\{ \begin{array}{l} \text{Men} \\ \text{Women} \end{array} \right.$
4. Number of cases and amounts realised as

	No. of Cases.	Amount
(a) Fine		Ra.
(b) Deductions for damage or loss		
(c) Deductions for breach of contract		

5. Disbursements from fine fund--

	Amount	Purpose.
	Ra.	

*The total number of persons employed means the average daily number of persons employed obtained by dividing the aggregate number of attendances during the year by the number of working days.

Signature

Dated

194 .

Designation

*See in. 7 in p. 889, ante.

FORM V.

REGISTER OF ADVANCES MADE TO EMPLOYED PERSONS.

Name of Contractor.....

Serial No.	Name.	Father's Name.	Occupation.	Monthly wages.	Date and amount of advance made.	Purpose (s) for which advance made.	Number of instalments by which advance to be repaid.	Postponements granted.	Date on which total amount repaid.	Signature or thumb impression of the worker or remarks.
1	2	3	4	5	6	7	8	9	10	11

FORM VI

ABSTRACT OF THE PAYMENT OF WAGES ACT, 1936, AND THE RULES MADE THEREUNDER

Whom the Act affects.

1. The Act applies to the payment of wages to persons in mine receiving less Rs. 200 a month.

2. No employed person can give up by contract or agreement his rights under the Act.

Definition of Wages.

3. "Wages" means all remuneration payable to an employed person on the fulfilment of his contract of employment.

It includes bonus and any sum payable for want of a proper notice of discharge.

It excludes—

(a) the value of house-accommodation, supply of light, water, medical attendance, or other amenity or of any service excluded by the Central Government ;

(b) the employer's contribution to a pension or provident fund ;

(c) travelling allowance or concession or other special expenses entailed by the employment ;

(d) any gratuity payable on discharge.

Responsibility for and Method of Payment.

4. The Employer is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs.

5. Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month.

6. Wages shall be paid on a working day within 7 days of the end of the wage-period (or within 10 days if 1,000 or more persons are employed).

The wages of a person discharged shall be paid not later than the second working day after his discharge.

7. Payments in kind are prohibited.

Fines and Deductions.

8. No deduction shall be made from wages except those authorised under the Act (see paragraphs 9-15 below).

9. Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Inspector, specify by a notice displayed at or near the main entrance of the work place or places at the mine and after giving the employed person an opportunity for explanation.

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working, and such deductions must not exceed an amount which is in the same proportion to his wages for the wage-period, as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but—

(1) no deduction for breaking a contract can be made from a person under 15 or a woman ;

(2) there must be a provision in writing which forms part of the contract of employment, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice ;

(3) the above provision must be displayed at or near the main entrance of the work place or places at the mine or work place ;

(4) no deduction of this nature can be made until a week's notice that this deduction is to be made has been posted at or near the main entrance of the work place or places at the mine or work place ;

(5) no deduction must exceed the wages of the employed person for the period by which the notice he gives of leaving employment, is less than the notice he should have given under his contract.

11. Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed person an opportunity for explanation.

12. Deductions can be made, equivalent to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) supplied by the employer, provided that these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of the Central Government.

13. (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advances given for travelling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster's discretion during employment.

14. Deduction can be made for subscription to and for repayment of advances from any recognised provident fund.

15. Deductions can be made for payments to co-operative societies approved by the Central Government or to the postal

insurance, subject to any conditions imposed by the Central Government.

Inspections.

16. An Inspector can enter on any premises, and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

Complaints of deductions or delays

17. (a) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within 6 months to the Authority appointed by the State Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(b) Any legal practitioner, official of a registered trade union, Inspector under the Act, or other person acting with the permission of the Authority can make the complaint on behalf of an employed person.

(c) A single application may be presented by, or on behalf of, any number of persons belonging to the same mine the payment of whose wages has been delayed.

Action by the Authority

18. The Authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

Appeal against the Authority.

19. An appeal in the prescribed form against a direction made by the Authority may be preferred within 30 days in Calcutta to the Court of Small Causes and elsewhere to the District Court—

(a) by the employer if the total amount directed to be paid exceeds Rs. 300 ;

(b) by an employed person, if the total amount, of wages withheld from him or his co-worker, exceeds Rs. 50 ;

(c) by a person directed to pay a penalty for a malicious or vexatious application.

Punishments for breaches of the Act.

20. Any one delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine up to Rs. 500, but only if prosecuted with the sanction of the Authority or the appellate Court.

21. The Employer who,—

(1) does not fix a wage-period, or
 (2) makes payment in kind, or
 (3) fails to display at or near the main entrance of the work place or places at the mine or work place this Abstract in English and in the language of the majority of the employed persons, or

(4) breaks certain rules made under the Act,

is liable to a fine not exceeding Rs. 200.

A complaint to this effect can be made only by the Inspector or with his sanction.

THE PAYMENT OF WAGES (PROCEDURE) RULES, 1937.¹

1. [(1)]² *Short Title.*—These rules may be called the Payment of Wages (Procedure) Rules, 1937.

²[(2) They extend to the whole of India except the State of Jammu and Kashmir.]

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context,—

(a) "the Act" means the Payment of Wages Act (IV of 1936);

(b) "appeal" means an appeal under section 17;

(c) "the Authority" means the authority appointed under sub-section (1) of section 15;

(d) "the Court" means the court mentioned in sub-section (1) of section 17;

(e) "employer" includes the persons responsible for the payment of wages under section 3;

(f) "section" means a section of the Act;

(g) "Form" means a form appended to these rules;

(h) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

¹ See Department of Industries and Labour Notification No. L. 3067, dated 24th February, 1937.

² Rule 1 re-numbered as sub-rule (1) of that rule and new sub-rule (2) inserted by Notification No. S.R.O. 1538, dated 1st October, 1951, pub. in Gazette of India, d/- 6-10-51, Pt. II—Sec. 3, p. 1811.

3. Form of Application.—Application under sub-section (2) of section 15 by or on behalf of an employed person or group of employed persons shall be made in duplicate in Form A, Form B or Form C as the case may be; one copy of which shall bear such court-fee as may be prescribed.

4. Authorisation.—The authorisation to act on behalf of an employed person or persons, under section 15, shall be given by a certificate in Form D, shall be presented to the Authority hearing the application and shall form part of the record.

5. Permission to appear.—Any person desiring the permission of the Authority to act on behalf of any employed person or persons shall present to the Authority a brief written statement explaining his interest in the matter, and the Authority shall record an order on the statement, which in the case of refusal shall include reasons for the order, and shall incorporate it in the record.

6. Presentation of documents.—(1) Applications or other documents relevant to an application may be presented in person to the Authority at any time during hours to be fixed by the Authority, or may be sent to him by registered post.

(2) The Authority shall at once endorse, or cause to be endorsed, on each document the date of the presentation or receipt, as the case may be.

7. Refusal to entertain application.—(1) The Authority may refuse to entertain an application presented under rule 6, if after giving the applicant an opportunity of being heard, the Authority is satisfied, for reasons to be recorded in writing that:—

(a) the applicant is not entitled to present an application; or

(b) the application is barred by reason of the provisions in the provisos to sub-section (2) of section 15; or

(c) the applicant shows no sufficient cause for making a direction under section 15.

(2) The Authority may refuse to entertain an application which is insufficiently stamped or is otherwise incomplete and, if he so refuses, shall return it at once with an indication of the defects. If the application is presented again after the defects have been made good, the date of re-presentation shall be deemed to be the date of presentation for the purposes of the provisos to sub-section (2) of section 15.

8. Appearance of parties.—(1) If the application is entertained, the Authority shall call upon the employer by a notice in Form E to appear before him on a specified date together with all

relevant documents and witnesses, if any, and shall inform the applicant of the date so specified.

(2) If the employer or his representative fails to appear on the specified date, the Authority may proceed to hear and determine the application *ex parte*.

(3) If the applicant fails to appear on the specified date, the Authority may dismiss the application:

Provided that an order passed under sub-rule (2) or sub-rule (3) may be set aside and the application reheard on good cause being shown within one month of the date of the said order, notice being served on the opposite party of the date fixed for rehearing.

9. Record of Proceedings.—(1) The Authority shall in all cases enter the particulars indicated in Form F and at the time of passing orders shall sign and date the Form.

(2) In a case where no appeal lies, no further record shall be necessary.

(3) In a case where an appeal lies, the Authority shall record the substance of the evidence and shall append it under his signature to the record of direction in Form F.

10. Signature on forms.—Any form, other than a Record of Direction, which is required by these rules to be signed by the Authority, may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

11. Exercise of powers.—In exercise of the powers of a Civil Court conferred by section 18 the Authority shall be guided in respect of procedure by the relevant orders of the first Schedule of the Code of Civil Procedure, 1908, with such alterations as the Authority may find necessary, not affecting their substance, for adapting them to the matter before him, and save where they conflict with the express provisions of the Act or these rules.

12. Appeals.—(1) An appeal shall be preferred in duplicate in the form of a memorandum, one copy of which shall bear the prescribed court-fee, setting forth concisely the grounds of objection to the direction and shall be accompanied by a certified copy of that direction.

(2) When an appeal is lodged a notice shall issue to the respondent in Form G.

(3) The Court after hearing the parties and after such further inquiry, if any, as it may deem necessary, may confirm, vary, or

set aside the direction from which the appeal is preferred, and shall make an order accordingly.

13. Inspection of documents.—Any employed person, or any employer or his representative, or any person permitted under sub-section (2) of section 15 to apply for a direction, shall be entitled to inspect any application, memorandum of appeal, or any other document filed with the Authority or the Court, as the case may be, in a case to which he is a party, and may obtain copies thereof on the payment of such fees as may be prescribed.

FORM A

FORM OF INDIVIDUAL APPLICATION

[See sub-section (2) of section 15 of the Payment of Wages Act.]

In the Court of the Authority appointed under the Payment of Wages Act, 1936 (IV of 1936) for.....area.

Application No.....of 193 .

Between A. B. C.....applicant.
(through

a legal practitioner,

.....
an official of.....

which is a registered trade union.)

And X. Y. Z.....opposite party.

The applicant states as follows:—

1. A.B.C. is a person employed $\frac{\text{in}}{\text{on}}$ the

factory.....
railway.....entitled
industrial establishment

and resides at

The address of the applicant for the service of all notices and processes is:

2. X. Y. Z., the opposite party, is the person responsible for the payment of his wages under section 3 of the Act, and his address for the service of all notices and processes is:

3. (1) The applicant's wages have not been paid for the following wage period(s) (give dates).

Or A sum of Rs.....has been unlawfully deducted from his wages of.....(amount) for the wage period(s) which ended on [give date(s).]

(2) [Here give any further claim or explanation.]

4. The applicant estimates the value of the relief sought by him at the sum of rupees.....

5. The applicant prays that a direction may be issued under sub-section (3) of section 15 for:—

(a) Payment of his delayed wages as estimated or such greater or lesser amount as the Authority may find to be due.

Or Refund of the amount illegally deducted.

(b) Compensation amounting to

The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief accurate.

*Signature or thumb-impression of
the employed person, or legal
practitioner, or official of a
registered trade union duly
authorised.*

FORM B

FORM OF GROUP APPLICATION

[See sub-section (2) of section 15 and section 16 of the Payment of Wages Act.]

In the Court of the Authority appointed under the Payment of Wages Act, 1936 (IV of 1936) for.....area.

Application No.....of 19 ..

Between A. B. C. and (state the number).....others;
applicants;

a legal practitioner

(through).....

an official of

.....which is a registered
trade union).

And X. Y. Z.,....., opposite party.

The applicants state as follows:—

1. The applicants whose names appear in the attached schedule
are persons employed in the factory.....
→ the railway.....entitled
on industrial establishment.....

The address of the applicants for service of all notices and processes is;

2. X. Y. Z., the opposite party, is the person responsible for the payment of wages under section 3 of the Act, and his address for the service of all notices and processes is:

3. The applicants' wages have not been paid for the following wage period(s):

4. The applicants estimate the value of the relief sought by them at the sum of rupees.....

5. The applicants pray that a direction may be issued under sub-section (3) of section 15 for:—

(a) Payment of the applicants' delayed wages as estimatedor such greater or lesser amount as the Authority may find to be due.

(b) Compensation amounting to.....

The applicants certify that the statement of facts contained in this application is to the best of their knowledge and belief accurate.

Signature or thumb-impression of two of the applicants, or legal practitioner, or an official of a registered trade union duly authorised.

SCHEDULE

Names of applicants:—

- 1.
- 2.
- 3.
- 4.
-
-

FORM C

FORM OF APPLICATION BY AN INSPECTOR OR PERSON PERMITTED BY THE AUTHORITY OR AUTHORISED TO ACT

[See sub-section (2) of section 15 and section 16 of the Payment of Wages Act.]

In the Court of the Authority appointed under the Payment of Wages Act, for.....ares.

Application No.....of 193

Between.

A.B.C., [(designation) , an Inspector under the Payment of Wages Act] [or a person permitted by the authority authorised

to act under sub-section (2) of section 15].....applicant.

And

X. Y. Z.....the opposite party.

FORM E

NOTICE FOR THE DISPOSAL OF APPLICATION

To

Whereas under the Payment of Wages Act, 1936 (IV of 1936) a claim against you has been presented to me in the application of which a copy is enclosed, you are hereby called upon to appear before me either in person, or by any person duly instructed, and able to answer all material questions relating to the application, or who shall be accompanied by some person able to answer all such questions, on the.....day of.....19 at..... o'clock in the fore noon to answer the claim; and as the day fixed after for your appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence, and the documents upon which you intend to rely in support of your defence.

Take notice that, in default of your appearance on the day before mentioned, the application will be heard and determined in your absence.

Given under my hand and seal, this day.....193 ..

Authority.

Seal

FORM F

RECORD OF DIRECTION

- (1) Serial number.....
- (2) Date of application.....
- (3) Name or names, parentage, address, or addresses of the applicants, or some, or all of the applicants belonging to the same unpaid group:
- (4) Name and address of the employer:
- (5) Amount claimed:—
 - (a) as delayed wages: Rs.....
 - (b) as deducted from wages: Rs.....
- (6) Plea of the employer and his examination (if any):
- (7) Finding, and, in the case of a direction under sub-section (3) or (4) of section 15, a brief statement of the reasons therefor:—

Rs.
- (8) Amounts awarded—
 - (a) Delayed wages.....
 - (b) Deducted wages.....
- (9) Compensation awarded.....
- (10) Penalty imposed.....

(11) Costs awarded to—

- (i) Court-fee charges.....
 (ii) Pleader's fee.....
 (iii) Witnesses' expenses.....

Signed.....

Dated.....

NOTE.—In cases where an appeal lies attach on a separate sheet the substance of the evidence.

FORM G

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE
 APPEAL UNDER SECTION 17 OF THE PAYMENT OF WAGES ACT, 1936

Appeal from the decision of the Authority for the.....
 area, dated the.....day of.....193.....

To

Respondent

Take notice that an appeal of which a copy is enclosed, from the decision of the Authority for.....area has been presented by X. Y. Z. (and others), and registered in this Court, and that the.....day of.....19.....has been fixed by this Court for the hearing of this appeal.

If no appearance is made on your behalf by yourself, or by some one by law authorised to act for you in this appeal, it will be heard and decided in your absence.

Given under my hand and the seal of the Court, this.....
 day of.....193.....

Judge.

Seal

THE PLANTATION LABOUR ACT, 1951.

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THE PLANTATIONS LABOUR ACT, 1951.

NO. LXIX OF 1951¹

An Act to provide for the welfare of labour, and to regulate the conditions of work, in plantations.

[2nd November, 1951]

Be it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent, commencement and application.*—(1) This Act may be called the Plantations Labour Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It applies in the first instance to all tea, coffee, rubber and cinchona plantations, but any State Government may, subject to the previous approval of the Central Government, by notification in the Official Gazette, apply it to any other class of plantations within that State.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "adolescent" means a person who has completed his fifteenth year but has not completed his eighteenth year;

(b) "adult" means a person who has completed his eighteenth year;

(c) "child" means a person who has not completed his fifteenth year;

(d) "day" means a period of twenty-four hours beginning at midnight;

(e) "employer", when used in relation to a plantation, means the person who has the ultimate control over the affairs of the plantation, and where the affairs of any plantation are entrusted to any other person (whether called a managing agent, manager, superin-

¹ For Statement of Objects and Reasons, see Gazette of India 1951, Part II—Sec. 2, p. 517. For Select Committee Report, see *ibid.*, p. 769.

tendent or by any other name) such other person shall be deemed to be the employer in relation to that plantation ;

(f) "plantation" means any land used or intended to be used for growing tea, coffee, rubber, or cinchona which admeasures twenty-five acres or more and whereon thirty or more persons are employed, or were employed on any day of the preceding twelve months, and in any State where the provisions of this Act have been applied by notification under sub-section (4) of section 1 to any other class of plantations, means also any land used or intended to be used for growing the plant mentioned in such notification and whereon thirty or more persons are employed, or were employed on any day of the preceding twelve months ;

(g) "prescribed" means prescribed by rules made under this Act ;

(h) "qualified medical practitioner" means a person having a certificate granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916) or in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933) and also persons having certificates granted under the different State (Provincial) Medical Council Acts ;

(i) "wages" has the meaning assigned to it in clause (h) of section 2 of the Minimum Wages Act, 1948 (XI of 1948) ;

(j) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be fixed by the State Government in relation to plantations in any area after such consultation as may be prescribed with reference to the plantations concerned in that area ;

(k) "worker" means a person employed in a plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical, but does not include—

(a) a medical officer at the plantation ;

(b) any person whose monthly wages exceed three hundred rupees ; or

(c) a person employed in a plantation primarily in a managerial capacity notwithstanding that his monthly wages do not exceed rupees three hundred ;

(l) "young person" means a person who is either a child or an adolescent.

3. *Reference to time of day.*—In this Act, reference to time of day are references to Indian Standard time being five and a half hours ahead of Greenwich Mean time :

Provided that for any area in which the Indian Standard time is not ordinarily observed, the State Government may make rules—

- (a) specifying the area ;
 - (b) defining the local mean time ordinarily observed therein ;
- and
- (c) permitting such time to be observed in all or any of the plantations situated in that area.

CHAPTER II

INSPECTING STAFF

4. Chief Inspector and Inspectors.—(1) The State Government may by notification in the official Gazette, appoint for the State a duly qualified person to be the chief inspector of plantations and so many duly qualified persons to be inspectors of plantations subordinate to the chief inspector as it thinks fit.

(2) Subject to such rules as may be made in this behalf by the State Government, the chief inspector may declare the local area or areas within which, or the plantations with respect to which, inspectors shall exercise their powers under this Act, and may himself exercise the powers of an inspector within such limits as may be assigned to him by the State Government.

(3) The chief inspector and all inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (Act XLV of 1860).

5. Powers and functions of inspectors.—Subject to any rules made by the State Government in this behalf, an inspector may within the local limits for which he is appointed—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules made thereunder are being observed in the case of any plantation ;

(b) with such assistants, if any, as he thinks fit, enter, inspect and examine any plantation or part thereof at any reasonable time for the purpose of carrying out the objects of this Act ;

(c) examine the crops grown in any plantation or any worker employed therein or require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act ;

(d) exercise such other powers as may be prescribed :

Provided that no person shall be compelled under this section

to answer any question or make any statement tending to incriminate himself.

6. Facilities to be afforded to inspectors.—Every employer shall afford the inspector all reasonable facilities for making any entry, inspection, examination or inquiry under this Act.

7. Certifying surgeons.—(1) The State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such plantation or class of plantations as it may assign to them respectively.

(2) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

(a) the examination and certification of workers;

(b) the exercise of such medical supervision as may be prescribed where adolescents and children are, or are to be, employed in any work in any plantation which is likely to cause injury to their health.

CHAPTER III

PROVISIONS AS TO HEALTH

8. Drinking water.—In every plantation effective arrangements shall be made by the employer to provide and maintain at convenient places in the plantation a sufficient supply of wholesome drinking water for all workers.

9. Conservancy.—(1) There shall be provided separately for males and females in every plantation a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to workers employed therein.

(2) All latrines and urinals provided under sub-section (1) shall be maintained in a clean and sanitary condition.

10. Medical facilities.—(1) In every plantation there shall be provided and maintained so as to be readily available such medical facilities for the workers as may be prescribed by the State Government.

(2) If in any plantation medical facilities are not provided and maintained as required by sub-section (1) the chief inspector may cause to be provided and maintained therein such medical facilities, and recover the cost thereof from the defaulting employer.

(3) For the purposes of such recovery the chief inspector may certify the costs to be recovered to the collector, who may recover the amount as an arrear of land-revenue.

CHAPTER IV

WELFARE

11. Canteens.—(1) The State Government may make rules requiring that in every plantation wherein one hundred and fifty workers are ordinarily employed, one or more canteens shall be provided and maintained by the employer for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which the canteen shall be provided ;

(b) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipment of the canteens ;

(c) the food-stuffs which may be served therein and the charges which may be made therefor ;

(d) the constitution of a managing committee for the canteen and the representation of the workers in the management of the canteen ;

(e) the delegation to the chief inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

12. Creches.—(1) In every plantation wherein fifty or more women workers are employed or were employed on any day of the preceding twelve months, there shall be provided and maintained by the employer suitable rooms for the use of children of such women who are below the age of six years.

(2) Such rooms shall—

(a) provide adequate accommodation ;

(b) be adequately lighted and ventilated ;

(c) be maintained in a clean and sanitary condition ; and

(d) be under the charge of a woman trained in the care of children and infants.

(3) The State Government may make rules prescribing the location and the standards of such rooms in respect of their construction and accommodation and the equipment and amenities to be provided therein.

13. Recreational facilities.—The State Government may make rules requiring every employer to make provision in his plantation for such recreational facilities for the workers and children employed therein as may be prescribed.

14. Educational facilities.—Where the children between the ages of six and twelve of workers employed in any plantation exceed twenty-five in number, the State Government may make rules requiring every employer to provide educational facilities for the children in such manner and of such standard as may be prescribed.

15. Housing facilities.—It shall be the duty of every employer to provide and maintain for every worker and his family residing in the plantation necessary housing accommodation.

16. Power to make rules relating to housing.—The State Government may make rules for the purpose of giving effect to the provisions of section 15 and, in particular providing for—

(a) the standard and specification of the accommodation to be provided ;

(b) the selection and preparation of sites for the construction of houses and the size of such plot ;

(c) the constitution of advisory boards consisting of representatives of the State Government, the employer and the workers for consultation in regard to matters connected with housing and the exercise by them of such powers, functions and duties in relation thereto as may be specified ;

(d) the fixing of rent, if any, for the housing accommodation provided for workers ;

(e) the allotment to workers and their families of housing accommodation and of suitable strips of vacant land adjoining such accommodation for the purpose of maintaining kitchen gardens, the definition of what constitutes the family of a worker for the purposes of section 15, and for the eviction of workers and their families from such accommodation ;

(f) access to the public to those parts of the plantation wherein the workers are housed.

17. Other facilities.—The State Government may make rules requiring that in every plantation the employer shall provide the workers with such number and type of umbrellas, blankets, rain coats or other like amenities for the protection of workers from rain or cold as may be prescribed.

18. Welfare officer.—(1) In every plantation wherein three hundred or more workers are ordinarily employed the employer shall employ such number of welfare officers as may be prescribed.

(2) The State Government may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1).

CHAPTER V

HOURS AND LIMITATION OF EMPLOYMENT

19. Weekly hours.—Save as otherwise expressly provided in this Act, no adult worker shall be required or allowed to work on any plantation in excess of fifty-four hours a week and no adolescent or child for more than forty hours a week.

20. Weekly holidays.—(1) The State Government may by rules made in this behalf—

(a) provide for a day of rest in every period of seven days which shall be allowed to all workers ;

(b) provide for payment for work done on a day of rest at a rate not less than the overtime rate prevailing in the area, and where there is no such rate at such rate as may be fixed by the State Government in this behalf.

(2) Notwithstanding anything contained in clause (a) of sub-section (1) where a worker is willing to work on any day of rest which is not a closed holiday in the plantation, nothing contained in this section shall prevent him from doing so.

Provided that in so doing a worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

Explanation 1.—Where on any day a worker has been prevented from working in any plantation by reason of tempest, fire, rain or other natural causes, that day, may, if he so desires, be treated as his day of rest for the relevant period of seven days within the meaning of sub-section (1).

Explanation 2.—Nothing contained in this section shall apply to any worker whose total period of employment including any day spent on leave is less than six days.

21. Daily intervals for rest.—The period of work on each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest for at least half an hour.

22. Spread-over.—The period of work of an adult worker in a plantation shall be so arranged that inclusive of his intervals for rest under section ³[21] it shall not spread over more than twelve hours including the time spent in waiting for work on any day.

23. Notice of period of work.—(1) There shall be displayed and correctly maintained in every plantation a notice of periods of

* Subs. for the figures "19" by the Repealing and Amending Act 42 of 1953.

work in such form and manner as may be prescribed showing clearly for every day the periods during which the workers may be required to work.

(2) Subject to the other provisions contained in this Act, no worker shall be required or allowed to work in any plantation otherwise than in accordance with the notice of periods of work displayed in the plantation.

(3) An employer may refuse to employ a worker for any day if on that day he turns up for work more than half an hour after the time fixed for the commencement of the day's work.

24. Prohibition of employment of young children.—No child who has not completed his twelfth year shall be required or allowed to work in any plantation.

25. Night work for women and children.—Except with the permission of the State Government, no woman or child worker shall be employed in any plantation otherwise than between the hours of 6 A.M. and 7 P.M. ;

Provided that nothing in this section shall be deemed to apply to midwives and nurses employed as such in any plantation.

26. Non-adult workers to carry tokens.—No child who has completed his twelfth year and no adolescent shall be required or allowed to work in any plantation unless—

(a) a certificate of fitness granted with reference to him under section 27 is in the custody of the employer ; and

(b) such child or adolescent carries with him while he is at work a token giving a reference to such certificate.

27. Certificate of fitness.—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the employer or any other person on his behalf that such person will be employed in the plantation if certified to be fit for work, or on the application of the employer or any other person on his behalf with reference to any young person intending to work, examine such person and ascertain his fitness for work either as a child or as an adolescent.

(2) A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.

(3) Any fee payable for a certificate under this section shall be paid by the employer and shall not be recoverable from the young person, his parents or guardian.

28. Power to require medical examination.—An inspector may,

if he thinks necessary so to do, cause any young person employed in a plantation to be examined by a certifying surgeon.

CHAPTER VI

LEAVE WITH WAGES

29. Application of Chapter.—(1) The provisions of this Chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other law or under the terms of any award, agreement, or contract of service :

Provided that where such award, agreement or contract of service provides for a longer leave with wages than provided in this Chapter the worker shall be entitled only to such longer leave.

Explanation.—For the purpose of this Chapter leave shall not, except as provided in section 30, include weekly holidays or holidays for festivals or other similar occasions.

30. Annual leave with wages.—(1) Every worker shall be allowed leave with wages for a number of days calculated at the rate of—

(a) if an adult, one day for every twenty days of work performed by him, and

(b) if a young person, one day for every fifteen days of work performed by him :

Provided that a period of leave shall be inclusive of any holiday which may occur during such periods.

(2) If a worker does not in any one period of twelve months take the whole of the leave allowed to him under sub-section (1), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months.

(3) A worker shall cease to earn any leave under this section when the earned leave due to him amounts to thirty days.

31. Wages during leave period.—(1) For the leave allowed to a worker under section 30 he shall be paid at the rate equal to the daily average of his total full-time wages, exclusive of any overtime earnings and bonus, if any, but inclusive of dearness allowance and the cash equivalent of any advantage accruing by the concessional supply by the employer of food-grains for the day on which he worked.

(2) A worker who has been allowed leave for ²[any period not less than] four days in the case of an adult and five days in the case of a young person under section 30 shall, before his leave begins be paid his wages for the period of the leave allowed.

32. Sickness and maternity benefits.—(1) Subject to any rules that may be made in this behalf, every worker shall be entitled to obtain from his employer—

(a) in the case of sickness certified by a qualified medical practitioner, sickness allowance, and

(b) if a woman, in the case of confinement or expected confinement, maternity allowance,

at such rate, for such period and at such intervals as may be prescribed.

(2) The State Government may make rules regulating the payment of sickness or maternity allowance and any such rules may specify the circumstances in which such allowance shall not be payable or shall cease to be payable, and in framing any rules under this section the State Government shall have due regard to the medical facilities that may be provided by the employer in any plantation.

CHAPTER VII

PENALTIES AND PROCEDURE

33. Obstruction.—(1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector any reasonable facility for making any inspection, examination or inquiry authorised by or under this Act in relation to any plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

34. Use of false certificate of fitness.—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself

² Subs. for the words "any period less than" by the Repealing and Amending Act 42 of 1953

under section 27 a certificate granted to another person under that section, or having been granted a certificate of fitness to himself, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

35. Contravention of provisions regarding employment of labour.—Whoever, except as otherwise permitted by or under this Act, contravenes any provision of this Act or of any rules made thereunder, prohibiting, restricting or regulating the employment of persons in a plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

36. Other offences.—Whoever contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided by or under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

37. Enhanced penalty after previous conviction.—If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

38. Exemption of employer from liability in certain cases.—Where an employer charged with an offence under this Act, alleges that another person is the actual offender, he shall be entitled upon complaint made by him in this behalf to have, on giving to the prosecutor in this behalf three clear days' notice in writing of his intention so to do, that other person brought before the court on the day appointed for the hearing of the case and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that—

(a) he has used due diligence to enforce the execution of the relevant provisions of this Act; and

(b) that the other person committed the offence in question without his knowledge, consent or connivance;

the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be acquitted:

Provided that—

(a) the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross examination on behalf of the person he charges to be the actual offender and by the prosecutor, and

(b) if, in spite of due diligence, the person alleged as the actual offender cannot be brought before the court on the day appointed for the hearing of the case, the court shall adjourn the hearing thereof from time to time so, however, that the total period of such adjournment does not exceed three months, and if, by the end of the said period, the person alleged as the actual offender cannot still be brought before the court, the court shall proceed to hear the case against the employer.

39. Cognizance of offences.—No court shall take cognizance of any offence under this Act except on complaint made by, or with the previous sanction in writing of, the chief inspector and no court inferior to that of a presidency magistrate or a magistrate of the second class shall try any offence punishable under this Act.

40. Limitation of prosecutions.—No court shall take cognizance of an offence punishable under this Act unless the complaint thereof has been made or is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector:

Provided that where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

CHAPTER VIII

MISCELLANEOUS

41. Power to give directions.—The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

42. Power to exempt.—The State Government may, by order in writing, exempt, subject to such conditions and restrictions as it may think fit to impose, any employer or class of employers from all or any of the provisions of this Act:

Provided that no such exemption shall be granted except with the previous approval of the Central Government.

43. General power to make rules.—(1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act:

Provided that the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897) shall not be less than six weeks from the date on which the draft of the proposed rules was published.

(2) In particular, and without prejudice to the generality of the foregoing power, any such rules may provide for—

(a) the qualifications required in respect of the chief inspector and inspector;

(b) the powers which may be exercised by inspectors and the areas in which and the manner in which such powers may be exercised;

(c) the medical supervision which may be exercised by certifying surgeons;

(d) the examination by inspectors or other persons of the supply and distribution of drinking water in plantations;

(e) appeals from any order of the chief inspector or inspector and the form in which, the time within which and the authorities to which, such appeals may be preferred;

(f) the time within which housing, recreational, educational or other facilities required by this Act to be provided and maintained may be so provided;

(g) the types of latrines and urinals that should be maintained in plantations;

(h) the medical, recreational and educational facilities that should be provided in plantations;

(i) the form and manner in which notices of periods of work shall be displayed and maintained;

(j) the registers which should be maintained by employers and the returns, whether occasional or periodical, as in the opinion of the State Government may be required for the purposes of this Act; and

(k) the hours of work for a normal working day for the purpose of wages and overtime.

(3) All rules made under this Act shall, if made by any Government, other than the Central Government, be subject to the previous approval of the Central Government.

THE INDIAN RAILWAYS ACT, 1890

ACT NO. IX OF 1890.¹

CHAPTER VIA²

LIMITATION OF EMPLOYMENT OF RAILWAY SERVANTS.

71A. Definitions.—In this Chapter, unless there is anything repugnant in the subject or context,—

(a) the employment of a railway servant is said to be 'essentially intermittent' when it has been declared to be so by the authority empowered in this behalf, on the ground that it involves long periods of inaction; during which the railway servant is on duty but is not called upon to display either physical activity or sustained attention; and

(b) except in section 71B, a "railway servant" means a railway servant to whom this Chapter applies.

71B. Application of Chapter VIA.—This Chapter applies only to such railway servants or classes of railway servants as the Central Government may, by rules made under section 71E, prescribe.

71C. Limitation of hours of work.—(1) A railway servant, other than a railway servant whose employment is essentially intermittent, shall not be employed for more than sixty hours a week on the average in any month.

(2) A railway servant whose employment is essentially intermittent shall not be employed for more than eighty-four hours in any week.

(3) Subject to rules made under section 71E, temporary exemptions of railway servants from the provisions of sub-section (1) and sub-section (2) may be made—

(a) when such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway, in cases of accident, actual or threatened, or when urgent work is required to be done to the railway or to rolling-stock, or in any emergency which could not have been foreseen or prevented; and

(b) in case of exceptional pressure of work not falling within the scope of clause (a):

¹ For Statement of Objects and Reasons, see Gazette of India, 1888, Pt. V, p. 133; for Report of the Select Committee, see *ibid.*, 1890, Pt. V, p. 23; and for Debates in Council, see *ibid.*, 1888, Pt. VI, pp. 124 and 137, and *ibid.*, 1890, Pt. VI, pp. 15 and 48.

² Chapter VIA was inserted by the Indian Railways (Amendment) Act 14 of 1930.

Provided that a railway servant exempted under clause (b) shall be paid for overtime at not less than one and a quarter times his ordinary rate of pay.

71D. *Grant of periodical rest.*—(1) A railway servant shall be granted, each week commencing on Sunday, a rest of not less than twenty-four consecutive hours ;

Provided that this sub-section shall not apply to a railway servant whose employment is essentially intermittent, or to a railway servant to whom sub-section (2) applies.

(2) The Central Government may, by rules made under section 71E, specify the railway servants or classes of railway servants to whom periods of rest may be granted on a scale less than that laid down in sub-section (1), and may prescribe the periods of rest to be granted to such railway servants.

(3) Subject to rules made under section 71E, temporary exemptions from the grant of periods of rest may be made in the cases or circumstances specified in sub-section (3) of section 71C :

Provided that a railway servant, shall, as far as may be possible, be granted compensatory periods of rest for the periods he has foregone.

71E. *Power to make rules.*—(1) The Central Government may make rules^a—

(a) prescribing the railway servants or classes of railway servants to whom this Chapter shall apply ;

(b) prescribing the authorities who may declare that the employment of any railway servant or class of railway servants is essentially intermittent ;

(c) specifying the railway servants or classes of railway servants to whom sub-section (2) of section 71D shall apply ;

(d) prescribing the authorities by whom exemptions under sub-section (3) of section 71C or sub-section (3) of section 71D may be made ;

(e) providing for the delegation of their powers by the authorities prescribed under clause (d) ; and

(f) providing for any other matter which is to be provided for by rules or which the Central Government may deem to be requisite for carrying out the purposes of this Chapter.

(2) Such rules shall be subject to the provisions of section 143.

^a For such rules, viz., "The Railway Servants (Hours of Employment) Rules, 1951", see p. 927 *et seq.*, *Infra*.

71F. *Railway servant to remain on duty.*—Nothing in this Chapter or the rules made thereunder shall authorise a railway servant to leave his duty where due provision has been made for his relief, until he has been relieved.

71G. *Supervisors of Railway Labour.*—(1) The Central Government may appoint persons to be Supervisors of Railway Labour.

(2) The duties of Supervisors of Railway Labour shall be—

(a) to inspect railways in order to determine if the provisions of this Chapter and of the rules made thereunder are duly observed, and

(b) such other duties as the Central Government may prescribe.

(3) A Supervisor of Railway Labour shall be deemed to be an Inspector for the purposes of sections 5 and 6.

71H. *Penalty.*—Any person under whose authority any railway servant is employed in contravention of any of the provisions of this Chapter or of the rules made thereunder shall be punishable with fine which may extend to five hundred rupees.

THE RAILWAY SERVANTS (HOURS OF EMPLOYMENT) RULES, 1951¹

1. *Short title and commencement.*—(1) These rules may be called the Railway Servants (Hours of Employment) Rules, 1951.

(2) They shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

2. *Definition.*—In these rules, unless the context otherwise requires :—

(a) "Act" means the Indian Railways Act, 1890 (IX of 1890) ;

(b) "Chapter" means of Chapter of the Act ;

(c) "excluded staff" means the staff described in sub-rule (3) of rule 3 ;

(d) "intensive workers" means the staff described in sub-rule (2) of rule 5 ;

(e) "section" or "sub-section" means a section or sub-section of the Act.

¹ See Notification No. S.R.O. 450, dated 26-3-51, pub. in Gazette of India, dated 31-3-51, Pt. II—Sec. 3, p. 519. These rules have superseded the Railway Servants (Hours of Employment) Rules, 1931, *see* the above Notification.

3. Application of Chapter VIA of the Act.—(1) The provisions of Chapter VIA (Sections 71A to 71H) of the Act shall apply to all classes of railway servants except :—

(a) Railway servants who are subject to the Factories Act, 1948, the Lodian Mines Act², 1923, or the Indian Merchant Shipping Act, 1923 ;

(b) excluded staff.

(2) The excluded staff referred to in clause (b) of sub-rule (1) shall consist of railway servants who fall under any of the following classes, namely :—

(i) supervisory staff ;

(ii) certain sections of the staff of the Health and Medical Departments such as Assistant Surgeons, Sub-Assistant Surgeons, Matrons and Sisters-in-charge ;

(iii) persons employed in a confidential capacity ;

(iv) saloon attendants ;

(v) care-takers of rest-houses, reservoirs and other railway property, whose employment is declared by the Head of the Railway to be exceptionally light on the ground that the total effective work in 24 hours amounts to less than 6 hours ;

(vi) gate-keepers of C-class level crossings where the gates are normally closed against road traffic, whose employment is declared by the Head of the Railway to be exceptionally light on the ground that the total effective work in 24 hours amounts to less than 6 hours ;

(vii) armed guards or other police personnel subject to military or police discipline, as the case may be ;

(viii) staff of the railway schools imparting technical training or academic education ;

²[(ix) casual labour.]

(3) If any question arises in respect of a declaration made by the Head of the Railway under clauses (v) and (vi) of sub-rule (2) or as to whether a person holds a position of supervision or management or are employed in a confidential capacity, the matter shall be referred to :—

(a) in a case falling under clause (i) of sub-rule (2), to the Central Government, whose decision shall be final ;

(b) in a case falling under clause (iv) and (vi) of sub-rule (2), to the Regional Labour Commissioner, whose decision subject to an appeal to the Central Government, shall be final.

4. Classification of employment of railway servants.—(1)

The employment of all railway servants shall be declared by the General Manager of a railway administration * [or by an officer, not below the rank of a senior scale Officer, authorised by the General Manager as a temporary measure during the periods of emergency] into following categories, namely :—

- (i) intensive ;
- (ii) essentially intermittent ;
- (iii) excluded staff ;
- (iv) continuous, that is to say, employment which does not fall under any of the aforesaid three categories.

(2) The employment of a railway servant shall be held to be "intensive" when it has been declared to be so by the authority empowered in this behalf on the ground that it is of a strenuous nature involving continuous concentration or hard manual labour with little or no periods of relaxation.

5. Limitation of hours of work.—(1) A railway servant whose employment is classified as intensive shall not be employed for more than 45 hours a week on the average in any month.

(2) A railway servant whose employment is continuous shall not be employed for more than 54 hours a week in any month.

(3) A railway servant whose employment is essentially intermittent shall not be employed for more than 75 hours a week.

6. Periodic rest.—(1) Subject to the provisions hereinafter contained, the following classes of railway servants shall be granted rest, each week, commencing on Sunday, on the following scale, namely :—

(i) intensive and continuous workers—a minimum of 30 consecutive hours ;

(ii) essentially intermittent workers—a minimum of 24 consecutive hours including a full night.

(2) "Excluded staff" shall be given at least one period of rest of 48 consecutive hours in a month or one period of 24 consecutive hours in each fortnight.

7. Periodic rest on less than the normal scale.—(1) Loco and Traffic Running Staff may be granted periods of rest on a scale different from that laid down in rule 6. They shall enjoy four periods of rest of not less than 30 consecutive hours or five periods of rest of not less than 22 consecutive hours in a month.

* Inserted by Notification No. S.R.O. 1635, dated 19.9.52, published in Gazette of India, dated 27.9.52, Pt. II—Sec. 3, pp. 1512-13.

(2) Mates, Keymen and Gangmen, whether employed on lines under construction or for the maintenance of permanent way, and artisans and unskilled labour employed for temporary purposes shall enjoy in each week commencing on Sunday a calendar day's rest or, at the discretion of the railway administration, an equivalent number of consecutive days up to a limit of three.

(3) Other staff on duty in running trains may be given periodic rest as indicated in sub-rule (1).

8. *Compensatory periods of rest.*—(1) A railway servant exempted under the provisions of sub-section (3) of section 71D from the grant of periods of rest shall not be required to work for more than 14 days without a rest of at least 30 consecutive hours.

(2) Exemption under the provisions of sub-section (3) of section 71D of the Act shall not be granted except by an order in writing made by the General Manager of a railway administration or an officer authorised by him in this behalf.

9. *Power to grant temporary exemptions.*—Subject to the provisions of sub-section (3) of section 71C and sub-section (3) of section 71D of the Act, the General Manager of a railway administration or an officer authorised by him in this behalf may grant temporary exemptions in respect of any railway servant or class of railway servants from the provisions of rules 5, 6 and 7.

10. *Notice of hours of employment.*—A railway administration shall make known to railway servants the duration of hours of employment and the incidence of periods of rest by displaying in a conspicuous place where such servants work, duty lists, rosters or other similar documents.

11. *Publication of rules.*—Every railway administration shall display in a conspicuous place at each station of its railway a copy of Chapter VIA of the Act and of these rules.

THE INDIAN TRADE UNIONS ACT, 1926.

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THE INDIAN TRADE UNIONS ACT, 1926.

ACT NO. XVI OF 1926¹.

[25th March, 1926.]

An Act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in ²[the Provinces of India].

¹ For Statement of Objects and Reasons, see Gazette of India, 1925, Pt. V, p. 8; and for Report of Select Committee, see *ibid.*, p. 197.

This Act has been amended by the Indian Trade Unions (Am.) Act 45 of 1947. But, as the Amendment Act has not as yet been brought into force, the amendments effected thereby have not been incorporated in this Act.

In exercise of the powers conferred by cl. (1) of Art. 258 of the Constitution the President has entrusted with effect from 1-3-52 to the Government of each Part A State, except the Government of Orissa, and to the Government of each Part B State, except the Government of Jammu and Kashmir, the functions of the Central Government under this Act in relation to trade unions whose objects are not confined to, and whose head office is situated in, that State. (Fide Notification No. S.R.O. 372, dated 26-2-52, pub. in Gazette of India, dated 1-3-52, Pt. II—Sec. 3, p. 345).

² Subs. for "British India" by I.A.O., 1948.

WHEREAS it is expedient to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in "[the Provinces of India]"; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called THE INDIAN TRADE UNIONS ACT, 1926.

²[(2) It extends to the whole of India ³[except the State of Jammu and Kashmir].]

(3) It shall come into force on such ⁴date as the Central Government may, by notification in the official Gazette, appoint.

2. *Definitions.*—In this Act 'the appropriate Government' means in relation to Trade Unions whose objects are not confined to one ⁵[State], the Central Government, and in relation to other Trade Unions, the ⁶[State Government] and, unless there is anything repugnant in the subject or context,—

(a) "executive" means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted;

(b) "Officer", in the case of a Trade Union includes any member of the executive thereof, but does not include an auditor;

(c) "Prescribed" means prescribed by regulations, made under this Act;

(d) "registered office" means that office of a Trade Union which is registered under this Act as the head office thereof;

(e) "registered Trade Union" means a Trade Union registered under this Act;

(f) "Registrar" means a Registrar of Trade Unions appointed by the appropriate Government under section 3, and "the Registrar", in relation to any Trade Union, means the Registrar appointed for the ⁷[State] in which the head or registered office, as the case may be, of the Trade Union is situated;

(g) "trade dispute" means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment or the terms of employment or the conditions of labour, of any person,

² Subs. for "British India" by I.A.O., 1960.

³ Subs. for former sub-sec. (2) by I.A.O., 1950.

⁴ Subs. for "except Part B States" by the Part B States (Laws) Act 3 of 1951.

⁵ 1st June, 1927, see Gazette of India, 1927, Pt. I, p. 467.

⁶ Subs. for "Province" by I.A.O., 1950.

⁷ Subs. for "Provincial Government" by I.A.O., 1950.

and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises ; and

(b) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions:

Provided that this Act shall not affect—

- (i) any agreement between partners as to their own business ;
- (ii) any agreement between an employer and those employed by him as to such employment ; or
- (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

CHAPTER II

REGISTRATION OF TRADE UNIONS.

3. *Appointment of Registrars.*—The appropriate Government shall appoint a person to be the Registrar of Trade Unions for each *[State].

4. *Mode of registration.*—Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act.

5. *Applications for registration.*—(1) Every application for registration of a Trade Union shall be made to the Registrar, and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars, namely:—

(a) the names, occupations and addresses of the members making the application;

(b) the name of the Trade Union and the address of its head office ; and

(c) the titles, names, ages, addresses and occupations of the officers of the Trade Union.

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars as may be prescribed.

6. *Provisions to be contained in the rules of a Trade Union.*—A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of

* Subs. for "Province" by I.A.O., 1950.

this Act, and the rules thereof provide for the following matters, namely:—

(a) the name of the Trade Union ;

(b) the whole of the objects for which the Trade Union has been established ;

(c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act ;

(d) the maintenance of a list of the members of the Trade Union and adequate facilities for the inspection thereof by the officers and members of the Trade Union ;

(e) the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary members as officers required under section 22 to form the executive of the Trade Union ;

(f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members ;

(g) the manner in which the rules shall be amended, varied or rescinded ;

(h) the manner in which the members of the executive and the other officers of the Trade Union shall be appointed and removed ;

(i) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the officers and members of the Trade Union ; and

(j) the manner in which the Trade Union may be dissolved.

7. *Power to call for further particulars and to require alteration of name.*—(1) The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.

(2) If the name under which a Trade Union is proposed to be registered is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application, and shall refuse to register the Union until such alteration has been made.

8. *Registration.*—The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act, in regard to registration, shall register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

9. *Certificate of registration.*—The Registrar on registering a Trade Union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the Trade Union has been duly registered under this Act.

10. *Cancellation of registration.*—A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar—

(a) on the application of the Trade Union to be verified in such manner as may be prescribed, or

(b) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by section 6:

Provided that not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union.

11. *Appeal.*—(1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal—

(a) where the head office of the Trade Union is situated within the limits of a Presidency-town, to the High Court, or

(b) where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the appropriate Government may appoint in this behalf for that area.

(2) The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(3) For the purpose of an appeal under sub-section (1) and appellate Court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code

of Civil Procedure, 1908 (V of 1908), and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such cost shall be recovered as if they had been awarded in a suit under the said Code.

(4) In the event of the dismissal of an appeal by any Court appointed under clause (b) of sub-section (1), the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose of such appeal, have all the powers of an appellate Court under sub-sections (2) and (3), and the provisions of those sub-sections shall apply accordingly.

12. *Registered Office*.—All communications and notices to a registered Trade Union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing, and the changed address shall be recorded in the register referred to in section 8.

13. *Incorporation of registered Trade Unions*.—Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both moveable and immoveable property and to contract, and shall by the said name sue and be sued.

14. *Certain Acts not to apply to registered Trade Unions*.—The following Acts, namely:—

(a) The Societies Registration Act, 1860 (XXI of 1860),

(b) The Co-operative Societies Act, 1912 (II of 1912),

[* *], and

(c) The Indian Companies Act, 1913 (VII of 1913)** shall not apply to any registered Trade Union, and the registration of any such Trade Union under any such Act shall be void.

CHAPTER III.

RIGHTS AND LIABILITIES OF REGISTERED TRADE UNIONS.

15. *Objects on which general funds may be spent*.—The general funds of a registered Trade Union shall not be spent on any other objects than the following, namely:—

(a) the payment of salaries, allowances and expenses to officers of the Trade Union ;

(b) the payment of expenses for the administration of the Trade Union, including audit of the accounts of the general funds of the Trade Union ;

* Clauses (c) and (d) omitted by the Repealing and Amending Act 25 of 1942.

** Now the Companies Act 1 of 1956.

(c) the prosecution or defence of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Trade Union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs ;

(d) the conduct of trade disputes on behalf of the Trade Union or any member thereof ;

(e) the compensation of members for loss arising out of trade disputes ;

(f) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members ;

(g) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment ;

(h) the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members ;

(i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such ;

(j) the payment in furtherance of any of the objects on which the general funds of the Trade Union may be spent, of contributions to any cause intended to benefit workmen in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year ; and

(k) subject to any conditions contained in the notification, any other object notified by the appropriate Government in the official Gazette.

16. *Constitution of a separate fund for political purposes.*—(1) A registered Trade Union may constitute a separate fund, from contribution separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2)

(2) The objects referred to in sub-section (1) are:—

(a) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the Government of India

Act, or the Government of India Act, 1935 (26 Geo. 5, c. 2). * [or the Constitution] or of any local authority, before, during or after the election in connection with his candidature or election ; or

(b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate ; or

(c) the maintenance of any person who is a member of any legislative body constituted under the Government of India Act, or the Government of India Act, 1935 (26 Geo. 5, c. 2), * [or the Constitution] or of any local authority ; or

(d) the registration of electors or the selection of a candidate for any legislative body constituted under the Government of India Act, or the Government of India Act, 1935 (26 Geo. 5, c. 2), * [or the Constitution] or for any local authority ; or

(e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

(3) No member shall be compelled to contribute to the fund constituted under sub-section (1) ; and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability Union (except in relation to the control or management of the said fund) or at any disadvantage as compared with other members of the Trade by reason of his not contributing to the said fund ; and contribution to the said fund shall not be made a condition for admission to the Trade Union.

17. *Criminal conspiracy in trade disputes.*—No officer or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code (XLV of 1860), in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence.

18. *Immunity from civil suit in certain cases.*—(1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any officer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered Trade Union shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act

* Inserted by L.A.O., 1950.

done in contemplation or furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.

19. *Enforceability of agreements.*—Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

20. *Right to inspect books of Trade Union.*—The account books of a registered Trade Union and the list of members thereof shall be open to inspection by an officer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

21. *Rights of minors to membership of Trade Unions.*—Any person who has attained the age of fifteen years may be a member of a registered Trade Union subject to any rules of the Trade Union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules:

Provided that no person who has not attained the age of eighteen years shall be an officer of any such Trade Union.

22. *Proportion of officers to be connected with the industry.*—Not less than one-half of the total number of the officers of every registered Trade Union shall be persons actually engaged or employed in an industry with which the Trade Union is connected:

Provided that the appropriate Government may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

23. *Change of name.*—Any registered Trade Union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 25, change its name.

24. *Amalgamation of Trade Unions.*—Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them, provided that the votes of at least one-half of the members of each or every such Trade Union entitled to vote are recorded, and that at least sixty per cent. of the votes recorded are in favour of the proposal.

25. *Notice of change of name or amalgamation.*—(1) Notice in writing of every change of name and of every amalgamation, signed, in the case of a change of name, by the Secretary and by seven members of the Trade Union changing its name, and, in the case of an amalgamation, by the Secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar, and where the head office of the amalgamated Trade Union is situated in a different '[State]', to the Registrar of such '[State]'.

(2) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(3) Save as provided in sub-section (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the register referred to in section 8 and the change of name shall have effect from the date of such registration.

(4) The Registrar of the '[State]' in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 6, register the Trade Union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

26. *Effects of change of name and of amalgamation.*—(1) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(2) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any of such Trade Unions or any right of a creditor of any of them.

27. *Dissolution.*—(1) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the Secretary of Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade

¹ Subs. for "Province" by L.A.O., 1950.

Union, and the dissolution shall have effect from the date of such registration.

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

28. *Returns.*—(1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited, in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of March next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of March. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement there shall be sent to the Registrar a statement showing all changes of officers made by the Trade Union during the year to which the general statement refers together also with a copy of the rules of the Trade Union corrected up to the date of the despatch thereof to the Registrar.

(3) A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

CHAPTER IV

REGULATIONS.

29. *Power to make regulations.*—(1) The appropriate Government may make regulations¹ for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the manner in which Trade Unions and the rules of Trade Unions shall be registered and the fees payable on registration ;

(b) the transfer of registration in the case of any registered Trade Union which has changed its head office from one ¹[State] to another ;

(c) the manner in which, and the qualifications of persons by whom, the accounts of registered Trade Unions or of any class of such Unions shall be audited ;

¹ Subs. for "Province" by L.A.O., 1950.

² See the Central Trade Union Regulations, 1938, (*Vide* Notification No. L-1785, dated 16-6-38), *post*.

(d) the conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections ; and

(e) any matter which is to be or may be prescribed.

30. *Publication of regulations.*—(1) The power to make regulations conferred by section 29 is subject to the condition of the regulations being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of regulations proposed to be made will be taken into consideration shall not be less than three months from the date on which the draft of the proposed regulations was published for general information.

(3) Regulations so made shall be published in the official Gazette and on such publication shall have effect as if enacted in this Act.

CHAPTER V.

PENALTIES AND PROCEDURE.

31. *Failure to submit returns.*—(1) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any provision of this Act, every officer or other person bound by the rules of the Trade Union to give or send the same, or if there is no such officer or person, every member of the executive of the Trade Union, shall be punishable with fine which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues :

Provided that the aggregate fine shall not exceed fifty rupees.

(2) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28, or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which may extend to five hundred rupees.

32. *Supplying false information regarding Trade Unions.*—Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he

Different State Governments have made Regulations for their respective areas, e.g., the Madras Trade Unions Regulations, 1927, the Assam Trade Unions Regulations, 1927, the Mysore Trade Unions Regulations, 1951, the Madhya Bharat Trade Unions Regulations, 1952, etc., etc.

knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which may extend to two hundred rupees.

33. *Cognizance of offences.*—(1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) No Court shall take cognizance of any offence under this Act unless complaint thereof has been made by, or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

THE CENTRAL TRADE UNION REGULATIONS, 1938.¹

In exercise of the powers conferred by section 29 of the Indian Trade Unions Act, 1926 (XVI of 1926), and by the said section of the said Act as in force in Berar, the Central Government is pleased, in relation to Trade Unions whose objects are not confined to one ²[State], to make the following regulations, the same having been previously published as required by sub-section (1) of section 30 of the said Act, namely:—

1. *Title and application.*—(1) These Regulations may be called the Central Trade Union Regulations, 1938.

(2) The regulations apply to trade unions whose objects are not confined to one ²[State].

2. *Definitions.*—In these regulations—

(a) "the Act" means the Indian Trade Unions Act, 1926.

(b) "Form" means a form appended to these regulations.

(c) "Section" means a section of the Act.

3. *Application for registration.*—Every application for registration of a Trade Union shall be made in form A.

4. *Register of Trade Unions.*—The Register of Trade Unions referred to in section 8 shall be maintained in form B.

5. *Certificates of registration.*—(1) The certificate of registration issued by the Registrar under section 9 shall be in form C.

(2) When the Registrar registers a change of name under section 25, sub-section (3), he shall certify under his signature at the foot of the certificate on its presentation to him by the Secretary that the new name has been registered.

¹ See Notification No. L-1785, dated 16th June, 1938.

² Subs. for "Province" by L.A.O., 1950.

6. *Cancellation of Registration.*—The Registrar on receiving an application for the cancellation of registration shall, before granting the application, satisfy himself that the withdrawal or cancellation of registration was approved by a general meeting of the Trade Union, or if it was not so approved, that it has the approval of the majority of the members of the Trade Union. For this purpose, he may call for such further particulars as he may deem necessary and may examine any officer of the Union.

7. *Unions registered with ²[State] Registrars.*—If the application is made by a Trade Union which has previously been registered by the Registrar of any ²[State] the Union shall submit with its application a copy of the certificate of registration granted to it and copies of the entries relating to it in the Register of Trade Unions for the ²[State].

8. *Fees.*—The fee payable for the registration of a Trade Union shall be Rs. 5.

9. *Amendment of rules.*—(1) On receiving a copy of an alteration made in the rules of a Trade Union under section 28(3), the Registrar, unless he has reason to believe that the alteration has not been made in the manner provided by the rules of the Trade Union, shall register the alteration in a register to be maintained for this purpose and shall notify the fact that he has done so to the Secretary of the Trade Union.

(2) The fee payable for registration of alteration of rules shall be Re. 1 for each set of alterations made simultaneously.

10. *Appeals.*—Any appeal made under section 11(1) of the Act must be filed within sixty days of the date on which the Registrar passed the order against which the appeal is made.

11. *Funds of a dissolved Trade Union.*—Where it is necessary for the Registrar, under section 27(2) to distribute the funds of a Trade Union which has been dissolved, he shall divide the funds in proportion to the amounts contributed by the members by way of subscription during their membership.

12. *Return.*—The annual return to be furnished under section 26 shall be submitted to the Registrar by the 31st day of July in each year and shall be in form D.

13. *Auditors.*—(1) Save as provided in sub-clauses (2), (3), (4) and (5) of this regulation, the annual audit of the accounts of any registered Trade Union shall be conducted by an auditor authorized to audit the accounts of companies under section 144 (1) of the Indian Companies Act, 1913² or under section 3(2) of the Indian Companies (Amendment) Act, 1939³.

² Subs. for "Province" by I.A.O., 1950.

³ Subs. for "Provincial" by I.A.O., 1950.

⁴ Now sec. 226 of the Companies Act I of 1956.

(2) Where the membership of a Trade Union did not at any time during the financial year exceed 2,500 the annual audit of the accounts may be conducted—

(a) by any examiner of local fund accounts, or

(b) by any local fund auditor appointed by the *[State Government], or

(c) by any person, who, having held an appointment under Government in any audit or accounts department, is in receipt of a pension of not less than Rs. 200 per mensem.

(3) Where the membership of a Trade Union did not at any time during the financial year exceed 750, the annual audit of the accounts may be conducted—

(a) by any two persons holding office as magistrates or judges or as members of any municipal council, district board, or legislative body, or

(b) by any person, who, having held an appointment under Government in any audit or accounts department, is in receipt of a pension from Government of not less than Rs. 75 a month, or

(c) by any auditor appointed to conduct the audit of any Co-operative Societies by Government or by the Registrar of Co-operative Societies or by any Provincial Co-operative organization recognized by Government for this purpose.

(4) Where the membership of a Trade Union did not at any time during the financial year exceed 250, the annual audit of the accounts may be conducted by any two members of the Union.

(5) Where the Trade Union is a federation of unions, and the number of unions, affiliated to it at any time during the financial year did not exceed 50, 15 or 5, respectively, the audit of the accounts of the federation may be conducted as if it had not at any time during the year had a membership of more than 2500, 750 or 250, respectively.

14. *Exception.*—Notwithstanding anything contained in regulation 13, no person, who, at any time during the year, was entrusted with any part of the funds or securities belonging to the Trade Union shall be eligible to audit the accounts of that Union.

15. *Audit.*—The auditor or auditors appointed in accordance with the regulations shall be given access to all the books of the Trade Union and shall verify the annual return with the accounts and vouchers relating thereto and shall thereafter sign the auditor's declaration appended to form D, indicating separately on that form under his signature or their signatures a statement showing in what respect he or they find the return to be incorrect, unvouched or not in accordance with the Act. The particulars given in the statement shall indicate:—

* Subs. for "Provincial Government" by I.A.O., 1950.

(a) Every payment which appears to be unauthorised by the rules of the Trade Union or contrary to the provisions of the Act.

(b) the amount of any deficiency or loss which appears to have been incurred by the negligence or misconduct of any person,

(c) the amount of any sum which ought to have been but is not brought to account by any person.

16. *Audit of political funds.*—The audit of the political fund of a registered Trade Union shall be carried out along with the audit of the general account of the Trade Union and by the same auditor or auditors.

17. *Inspection.*—(1) The register of Trade Unions maintained in accordance with regulation 4 shall be open to inspection by any person on payment of a fee of annas eight.

(2) Any documents in the possession of the Registrar received from a registered Trade Union may be inspected by any member of that Union on payment of a fee of annas eight for each document inspected.

(3) Documents shall be open to inspection every day on which the office of the Registrar is open and within such hours as may be fixed for this purpose by the Registrar.

(4) The Registrar may supply a certified copy of any such document to a registered Trade Union or a member thereof on payment of annas twelve for the first two hundred words (or less) and annas six for every additional hundred words or fractional part thereof.

FORM A

APPLICATION FOR REGISTRATION OF TRADE UNION.

Dated the _____ day of _____ 19 ____

1. We hereby apply for the registration of a trade union under the name of _____
2. The address of the head office of the Union is _____
3. The union came into existence on the day of _____ 19 ____
4. The union is a union of employers/workers engaged in the industry (or profession), _____
5. The particulars required by section 5 (1) (c) of the Indian Trade Unions Act, 1926, are given in Schedule I.
6. The particulars given in Schedule II show the provision made in the rules for the matters detailed in section 6 of the Indian Trade Unions Act, 1926.
7. (To be struck out in case of unions which have not been in existence for one year before the date of application). The particulars required by section 5 (2) of the Indian Trade Unions Act, 1926, are given in Schedule *III.
8. We have been duly authorised to make this application.

Signature	Occupation	Address
Signed 1		
2		
3		
4		
5		
6		
7		

To the Registrar of Central Trade Unions, Delhi.

* State here whether the authority was given by a resolution of a general meeting of the Union, if not what other way it was given.

SCHEDULE I

LIST OF OFFICERS.

Title	Name	Age	Address	Occupation

Note.—Enter in this Schedule the names of all members of the executive of the Union, showing in column 1 the names of any posts held by them (e.g. President, Secretary, Treasurer etc.) in addition to their offices as members of the executive.

SCHEDULE II

REFERENCE TO RULES.

The numbers of the rules making provision for the several matters detailed in column 1 are given in column 2 below:—

Matter.	Number of rules.
Name of Union.	
The whole of the objects for which the union has been established.	
The whole of the purposes for which the general funds of the union shall be applicable.	
The maintenance of a list of members.	
The facilities provided for the inspection of the list of members by officers and members.	
The admission of ordinary members.	
The admission of honorary or temporary members.	
The conditions under which members are entitled to benefits assured by the rules.	
The conditions under which fines or forfeitures can be imposed or varied.	
The manner in which the rule shall be amended, varied or rescinded.	
The manner in which the members of the executive and the other officers of the union shall be appointed and removed.	
The safe custody of the funds.	
The annual audit of the accounts.	
The facilities for the inspection of the account books by officers and members.	
The manner in which the union may be dissolved.	

SCHEDULE III.

(This need not be filled in if the Union came into existence less than one year before the date of application for registration.)

Statement of Liabilities and Assets on the day of

19 ..

Liabilities.	Rs. A. P.	Assets.	Rs. A. P.
Amount of general fund		Cash—	
Amount of political fund		In hands of Treasurer	
Loans from		In hands of Secretary	
Other liabilities (to be specified) ..		In hands of ..	
		In the Bank ..	
		In the Bank ..	
		Securities as per list below ..	
		Unpaid subscriptions due ..	
		Loans to ..	
		Immovable property ..	
		Goods and furniture ..	
		Other assets (to be specified) ..	
Total Liabilities ..		Total Assets ..	

LIST OF SECURITIES.

Particulars	Nominal	Market value	In hands of

Signed 1.
2.
3.
4.

5.
6.
7.

FORM B
REGISTER OF TRADE UNIONS.

Serial No.	Officers.																
Name of Union. Address of Head Office. Date of registration.																	
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 10%; text-align: center;">Year of entering on office</td> <td style="width: 10%; text-align: center;">Name</td> <td style="width: 10%; text-align: center;">Age of entry</td> <td style="width: 10%; text-align: center;">Address</td> <td style="width: 10%; text-align: center;">Occupation</td> <td style="width: 10%; text-align: center;">Year of relinquishing office</td> <td style="width: 20%; text-align: center;">Other offices held in addition to membership of executive, with dates.</td> </tr> <tr> <td style="padding: 5px;"> Number of application form List of members applying for registration. </td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>		Year of entering on office	Name	Age of entry	Address	Occupation	Year of relinquishing office	Other offices held in addition to membership of executive, with dates.	Number of application form List of members applying for registration.							
	Year of entering on office	Name	Age of entry	Address	Occupation	Year of relinquishing office	Other offices held in addition to membership of executive, with dates.										
Number of application form List of members applying for registration.																	

1.
2.
3.
4.

5.
6.
7.

FORM C
CERTIFICATE OF REGISTRATION OF TRADE UNION.

No.

It is hereby certified that the _____ has been registered
 under the Indian Trade Unions Act, 1926 this day of _____ 19 .

Seal

Registrar of Central Trade Unions.

FORM D

(Annual return prescribed under section 28 of the Indian Trade Unions Act, 1926, for the year ending 31st March, 19)

Name of Union.
Registered Head Office.
Number of certificate of registration.

Return to be made by Federations of Trade Unions.

This return need not be made by Federation of Trade Unions.

Number of unions affiliated at beginning of year.
Number of unions joining during the year.
Number of unions disaffiliated at the end of the year.
Number of members on books at the beginning or the year.
Number of members admitted during the year (add)
Together
Number of members who left during the year (deduct)
Total number of members on books at the end of the year.
Males.
Females.
Number of members contributing to political fund.

A copy of the rules of the Trade Union, corrected up to the date of despatch of this return, is appended.

Dated the

Secretary.

STATEMENT OF LIABILITIES AND ASSETS ON THE DAY OF

19

Liabilities	Rs. A. P.	Assets	Rs. A. P.
Amount of General Fund ..		Cash—	
Amount of Political Fund ..		In hands of Treasurer ..	
		In hands of Secretary ..	
		In hands of ..	
Loans from—		In the Bank ..	
		In the Bank ..	
Debts due to—		Securities as per list below	
Other liabilities (to be specified) ..		Unpaid subscriptions due	
		Loans to—	
		Immovable property ..	
		Goods and furniture ..	
		Other assets (to be specified) ..	
Total Liabilities ..		Total Assets ..	

List of Securities

Particulars	Nominal value	Market value at the date on which accounts have been made up	In hands of

Treasurer

GENERAL FUND ACCOUNT.

Income	Rs. A. P.	Expenditure	Rs. A. P.
Balance at beginning of year ..		Salaries, allowances and expenses of officers ..	
Contributions from members at per member ..		Salaries, allowances and expenses of establishment ..	
Donations ..		Auditors' fees ..	
Sale of periodicals, rules etc. ..		Legal expenses ..	
Interest on investments ..		Expenses in conducting trade disputes ..	
Income from miscellaneous sources (to be specified) ..		Compensation paid to members for loss arising out of trade disputes ..	
		Funeral, old age, sickness, unemployment benefits, etc. ..	
		Educational, social and religious benefits ..	
		Cost of publishing periodicals ..	
		Rents, rates and taxes ..	
		Stationery, printing and postage ..	
		Expenses incurred under section 15 (j) of the Indian Trade Unions Act, 1926 (to be specified)—	
		Other expenses (to be specified)—	
		Balance at the end of year	

TOTAL ..

TOTAL ..

POLITICAL FUND ACCOUNT.

	Rs. A. P.		Rs. A. P.
Balance at the beginning of year ..		Payments made on objects specified in section 16 (2) of the Indian Trade Unions Act, 1926 (to be specified) ..	
Contributions from members at per member ..		Expenses of managements (to be specified) ..	
		Balance at the end of year ..	
TOTAL ..		TOTAL ..	

Treasurer.

AUDITOR'S DECLARATION.

The undersigned, having had access to all the books and accounts of the Trade Union and having examined the foregoing statements and verified the same as found to be correct, duly vouched and in accordance with the law, subject to the remarks, if any, appended hereto.

Auditor.

The following changes of officers have been made during the year :—

Officers relinquishing office.

Name.	Office.	Date of relinquishing office.

OFFICERS APPOINTED.

Name	Age	Office	Address	Occupation	Date of appointment

Secretary.

THE WEEKLY HOLIDAYS ACT, 1942.

CONTENTS

Sections.

1. Short title, extent and commencement.
2. Definitions.
3. Closing of shops.
4. Weekly holidays in shops, restaurants and theatres.
5. Additional half-day closing or holiday.

Sections.

6. No deduction or abatement to be made from wages.
7. Inspectors.
8. Powers of Inspectors.
9. Penalties.
10. Rules.
11. Power to exemption and suspension.

THE WEEKLY HOLIDAYS ACT, 1942.

ACT NO. XVIII OF 1942.¹

[3rd April, 1942.]

An Act to provide for the grant of weekly holidays to persons employed in shops, restaurants and theatres.

WHEREAS it is expedient to provide for the grant of weekly holidays to persons employed in shops, restaurants and theatres ;

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Weekly Holidays Act, 1942.

(2) It extends to ²[the whole of India ³[except the State of Jammu and Kashmir]].

(3) It shall come into force in a ⁴[State] or in a specified area within a ⁴[State] only if the ⁴[State Government] by notification in the official Gazette so directs.

¹ For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 142; and for Report of Select Committee see *ibid.* 1942, Pt. V, p. 55.

This Act was brought into force in Bihar, Ajmer and Coorg by the respective State Governments in pursuance of the provisions of sub-sec. (3) of sec. 2 of this Act. The States of Assam, West Bengal, Bombay, Madhya Pradesh, Madras, Punjab and Uttar Pradesh have separate similar legislations regulating holidays, leave etc. of persons employed in shops and other establishments, viz., The Bengal Shops and Establishments Act, 1940 (Ben. 16 of 1940), The Bombay Shops and Establishments Act, 1948 (Bom. 79 of 1948), The Madras Shops and Establishments Act, 1947 (Mad. 36 of 1947), etc., etc.

² Subs. by L.A.O., 1950, for "all the Provinces of India" which had been subs. for "the whole of British India" by L.A.O., 1948.

³ Subs. for "except Part B States" by the Part B States (Laws) Act 3 of 1951.

⁴ Subs. for "Province" by L.A.O., 1950.

⁵ Subs. for "Provincial Government" by *ibid.*

2. *Definitions*.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "establishment" means a shop, restaurant or theatre;

(b) "day" means a period of twenty-four hours beginning at mid-night ;

(c) "restaurant" means any premises in which is carried on principally or wholly the business of supplying meals or refreshments to the public or a class of the public for consumption on the premises but does not include a restaurant attached to a theatre ;

(d) "shop" includes any premises where any retail trade or business is carried on, including the business of a barber or hair dresser, and retail sales by auction, but excluding the sale of programmes, catalogues and other similar sales at theatres ;

(e) "theatre" includes any premises intended principally or wholly for the presentation of moving pictures, dramatic performances, or stage entertainments ;

(f) "week" means a period of seven days beginning at midnight on Saturday.

3. *Closing of shops*.—(1) Every shop shall remain entirely closed on one day of the week, which day shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop.

(2) The day so specified shall not be altered by the shop-keeper more often than once in three months.

4. *Weekly holidays in shops, restaurants and theatres*.—Every person employed otherwise than in a confidential capacity or in a position of management in any shop, restaurant or theatre shall be allowed in each week a holiday of one whole day :

Provided that nothing in this section shall apply to any person whose total period of employment in the week including any days spent on authorised leave is less than six days or entitle to an additional holiday a person employed in a shop who has been allowed a whole holiday on the day on which the shop has remained closed in pursuance of section 3.

5. *Additional half-day closing or holiday*.—(1) The ¹[State Government] may, by notification in the official Gazette, require in respect of shops or any specified class of shops that they shall be closed at such hour in the afternoon of one week-day in every week in addition to the day provided for by section 3 as may be fixed by the ²[State Government], and, in respect of theatres and restaurants or any specified class of either or both, that every person employed therein otherwise than in a confidential capacity or in a position of management shall be allowed

¹ Substituted for "Provincial Government" by I.A.O., 1950.

in each week an additional holiday of one-half-day commencing at such hour in the afternoon as may be fixed by the ²[State Government].

(2) The ²[State Government] may, for the purposes of this section, fix different hours for different shops or different classes of shops or for different areas or for different times of the year.

(3) The weekly day on which a shop is closed in pursuance of a requirement under sub-section (1) shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop and shall not be altered by the shop-keeper more often than once in three months.

6. *No deduction or abatement to be made from wages.*—No deduction or abatement of the wages of any person employed in an establishment to which this Act applies shall be made on account of any day or part of a day on which the establishment has remained closed or a holiday has been allowed in accordance with sections 3, 4 and 5, and if such person is employed on the basis that he would not ordinarily receive wages for such day or part of a day he shall none the less be paid for such day or part of a day the wages he would have drawn had the establishment not remained closed or the holiday not been allowed on that day or part of a day.

7. *Inspectors.*—(1) The ²[State Government] may, by notification in the official Gazette, appoint persons to be inspectors for the purposes of this Act within such local limits as it may assign to each such person.

(2) Every inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

8. *Powers of Inspectors.*—(1) Subject to any rules made in this behalf by the ²[State Government], an inspector may, within the local limits for which he is appointed,—

(a) enter and remain in any establishment to which this Act applies with such assistants, if any, being servants of the ¹[Government], as he thinks fit ;

(b) make such examination of any such establishment and of any record, register or notice maintained therein in pursuance of rules made under clause (c) of sub-section (2) of section 10, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act ;

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act.

¹ Subs. for "Provincial Government" by L.A.O., 1950.

² Subs. for "Crown" by L.A.O., 1950.

(2) Any person having the custody of any record, register or notice maintained in pursuance of rules made under clause (c) of sub-section (2) of section 10, shall be bound to produce it when so required by the inspector, but no person shall be compellable to answer any question if the answer may tend directly or indirectly to criminate himself.

9. *Penalties.*—In the event of any contravention of the provisions of section 3, of section 4, of a requirement imposed by notification under sub-section (1) of section 5, of section 6, or of the rules made under clause (c) of sub-section (2) of section 10, the proprietor or other person responsible for the management of the establishment in which such contravention takes place shall be punishable with fine which may extend, in the case of the first offence, to twenty-five rupees, and, in the case of a second or subsequent offence, to two hundred and fifty rupees.

10. *Rules.*—(1) The '[State Government] may, subject to the condition of previous publication by notification in the official Gazette, make rules' for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) define the persons who shall be deemed to be employed in a confidential capacity or in a position of management for the purpose of sections 4 and 5 ;

(b) regulate the exercise of their powers and the discharge of their duties by inspectors ;

(c) require registers and records to be maintained and notices to be displayed in establishments to which this Act applies and prescribe the form and contents thereof.

11. *Power to exemption and suspension.*—The Central Government in respect of establishments under its control, and the '[State Government] in respect of all other establishments with the '[State] may, subject to such conditions, if any, as it thinks fit to impose, exempt any establishment to which this Act applies from all or any specified provisions of this Act, and may, on any special occasion in connection with a fair or festival or a succession of public holidays, suspend for a specified period the operation of this Act.

* Subs. for "Province" by L.A.O. 1950.

† Subs. for "Provincial Government" by L.A.O. 1950.

‡ For Madras, see the Madras Weekly Holidays Rules, 1947. (*vide* Mad. Govt. G.O. No. 2723, Development, 23rd June, 1947).

THE WORKMEN'S COMPENSATION ACT, 1923.

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THE WORKMEN'S COMPENSATION ACT, 1923.

ACT NO. VIII OF 1923.¹

[5th March, 1923.]

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

WHEREAS it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Workmen's Compensation Act, 1923.

²[(2) It extends to the whole of India ³[except the State of Jammu and Kashmir].]

(3) It shall come into force on the first day of July, 1924.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "adult" and "minor" mean respectively a person who is not and a person who is under the age of fifteen years ;

(b) "Commissioner" means a Commissioner for Workmen's Compensation appointed under section 20 ;

(c) "compensation" means compensation as provided for by this Act ;

(d) "dependant" means any of the following relatives of a deceased workman, namely :—

(i) a widow, minor legitimate son, and unmarried legitimate daughter, or a widowed mother ; and

¹ For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p. 313, and for Report of Joint Committee see *ibid*, 1923, Pt. V, p. 37.

This Act has been amended in its application to Bengal [now West Bengal] by the Bengal Touts Act, 1942 (Ben. 5 of 1942), and the Workmen's Compensation (Ben. Am.) Act, 1942 (Ben. 6 of 1942).

This Act has been extended to Berar by the Berar Laws Act 4 of 1941, and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation 4 of 1936, and in the Angul District by the Angul Laws Regulation 5 of 1936.

² Subs. for former sub-sec. (2) by L.A.O., 1950.

³ Subs. for "except Part B States" by the Part B States (Laws) Act 5 of 1951.

(ii) if wholly or in part dependent on the earnings of the workman at the time of his death, a widower, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, a minor child of a deceased daughter where no parent of the child is alive, or, where no parent of the workman is alive, a paternal grandparent ;

(c) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him ;

(f) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer ;

(g) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time: provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement ;

(h) "prescribed" means prescribed by rules made under this Act ;

(i) "qualified medical practitioner" means any person registered under the Medical Act, 1858 (21 & 22 Vict., c. 90), or any Act amending the same, or under any "[Central Act, Provincial Act or an Act of the Legislature of a [Part A State or Part B State]] providing for the maintenance of a register of medical practitioners, or, in any area where no such last-mentioned Act is in force, any person declared by the "[State Government], by notification in the Official Gazette, to be a qualified medical practitioner for the purposes of this Act ;

[* *]

(k) "seaman" means any person forming part of the crew of any ship, but does not include the master of the ship ;

* Subs. for "Act of the Central Legislature or of any Legislature in a Province of India" by I.A.O. 1950.

* Subs. for "Part A State" by Act 3 of 1951.

* Subs. for "Provincial Government" by I.A.O. 1950.

* CL (j) was rep. by the Workmen's Compensation (Am.) Act 15 of 1933.

(f) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement: provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred per cent.;

(g) "wages" includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

(h) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—

(i) a railway servant as defined in section 3 of the Indian Railways Act, 1890 (IX of 1890), not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(ii) employed on monthly wages not exceeding four hundred rupees, in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of * [the Armed Forces of the Union]; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

(2) The exercise and performance of the powers and duties of a local authority or of any department acting on behalf of the *[Government] shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

(3) The '[State Government], after giving, by notification' in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule II any class of

* Subs. for "His Majesty's naval, military or air forces" by I.A.O., 1950.

* Subs. for "Crown" by I.A.O., 1950.

* Subs. for "Provincial Government" by I.A.O., 1950.

* For such a notification, see Gazette of India, 1935, Pt. I, p. 745.

persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply within the ¹[State] to such classes of persons:

Provided that in making such addition the ¹[State Government] may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only.

West Bengal Amendment.—In sub-sec. (1) of sec. 2, after cl. (f) the following clause was inserted by the Workmen's Compensation (Ben. Am.) Act, 1942 (Ben. Act 6 of 1942), namely:—

"(f) 'medical referee' means a qualified medical practitioner appointed under section 24A as a medical referee for the purposes of this Act."

CHAPTER II.

3. *Employer's liability for compensation.*—(1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter;

Provided that the employer shall not be so liable—

(a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding seven days;

(b) in respect of any injury, not resulting in death, caused by an accident which is directly attributable to—

(i) the workman having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workman, or

(iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen.

(2) If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment in the same kind of employment.

¹ Subs. for "Provincial Government" by I.A.O., 1950.

² Subs. for "Province" by I.A.O., 1950.

Explanation.—For the purposes of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

(3) The '[State Government]', after giving, by notification in the Official Gazette not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which within the '[State]' shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall thereupon apply within the '[State]' as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury.

(a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or

(b) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

4. *Amount of compensation.*—(1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:—

(a) Where death results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and

(ii) in the case of a minor—two hundred rupees;

(b) Where permanent total disablement results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof, and

(ii) in the case of a minor—twelve hundred rupees;

¹ Subs. for "Provincial Government" by I.A.O., 1950.

² Subs. for "Province" by I.A.O., 1950.

(c) Where permanent partial disablement results from the injury—

(i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury ;

Explanation.—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries :

(d) Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of seven days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—of the sum shown against such limits in the fourth column thereof, and

(ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees :

Provided that—

(a) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be : and

(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

5. *Method of calculating wages.*—In this Act and for the purposes thereof the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are

payable by the month or by whatever other period or at piece rates), and calculated as follows, namely:—

(a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period ;

(b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality ;

(c) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

Explanation.—A period of service shall, for the purposes of this section be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

6. *Review.*—(1) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner, on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

7. *Commulation of half-monthly payments.*—Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for the not less than six months, on the application of either party to the Commissioner be redeemed by the payment of a lump sum of such

amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

8. *Distribution of compensation.*—(1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.

(4) On the deposit of any money under sub-section (1) as compensation in respect of a deceased workman the Commissioner shall deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding twenty-five rupees and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(5) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person, whom the Commissioner thinks best fitted to provide for the welfare of the workman.

(8) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(9) Where the Commissioner varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 31.

9. *Compensation not to be assigned, attached or charged.*—Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

10. *Notice and claim.*—(1) No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within one year of the occurrence of the accident or, in case of death, within one year from the date of death.

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are

applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease :

Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the entertainment of a claim :—

(a) if the claim is preferred in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed had knowledge of the accident from any other source at or about the time when it occurred :

Provided, further, that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one of several employers, or upon any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) The '[State Government] may require that any prescribed class of employers shall maintain at their premises at which workmen are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured workman employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book.

10A. *Power to require from employers statements regarding fatal*

¹ Subs. for "Provincial Government" by L.A.O., 1950.

accidents.—(1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such enquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

10B. Reports of fatal accidents.—(1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death :

Provided that where the ¹[State Government] has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

(2) The ¹[State Government] may, by notification in the Official Gazette, extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner.

11. Medical examination.—(1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time :

¹ Subs. for "Provincial Government" by L.A.O., 1950.

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (d) of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is proved that the workman has not thereafter been regularly attended by a qualified medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner whose instructions he had followed; and compensation, if any, shall be payable accordingly.

12. *Contracting.*—(1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

13. *Remedies of employer against stranger.*—Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

14. *Insolvency of employer.*—(1) Where any employer has entered into a contract with any insurers in respect of any

liability under this Act to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman:

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(4) There shall be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920), or under section 230 of the Indian Companies Act, 1913 (VII of 1913)*, are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section,

* See now sec. 530 of the Companies Act I of 1956.

be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

15. *Special provisions relating to masters and seamen.*—This Act shall apply in the case of workmen who are masters of ships or seamen subject to the following modifications, namely :—

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(2) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(3) Where an injured master or seaman is discharged or left behind in any part of ¹ [India or] His Majesty's dominions or ² [in any other foreign country], any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any ³ [State Government] shall, in any proceedings for enforcing the claim, be admissible in evidence—

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made ;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness ; and

(c) if the deposition was made in the course of a criminal pro-

¹ Subs. for "Provincial Government" by I.A.O., 1950.

² Inserted by I.A.O., 1950.

³ Subs. for "in a foreign country" by *ibid.*

ceeding, on proof that the deposition was made in the presence of the person accused ;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(4) No half-monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being * [* * * *] relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

(5) No compensation shall be payable under this Act in respect of any injury in respect of which provision is made for payment of a gratuity, allowance or pension under the War Pensions and Detention Allowances (Mercantile Marine, etc.) Scheme, 1939, or the War Pensions and Detention Allowances (Indian Seamen, etc.) Scheme, 1941, made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939 (2 & 3 Geo., 6, c. 83), or under the War Pensions and Detention Allowances (Indian Seamen) Scheme, 1942, made by the Central Government.

(6) Failure to give a notice or make a claim or commence proceedings within the time required by this Act shall not be a bar to the maintenance of proceedings under this Act in respect of any personal injury, if—

(a) an application has been made for payment in respect of that injury under any of the schemes referred to in the proceeding clause, and

(b) the ¹[State Government] certifies that the said application was made in the reasonable belief that the injury was one in respect of which the scheme under which the application was made makes provision for payments, and that the application was rejected or that payments made in pursuance of the application were discontinued on the ground that the injury was not such an injury, and

(c) the proceedings under this Act are commenced within one month from the date on which the said certificate of the ¹[State Government] was furnished to the person commencing the proceedings.

¹ Subs. for "Provincial Government" by I.A.O. 1950.

² The words "in Part A States and Part C States" which had been subs. for the words "in the Provinces" by I.A.O. 1950 were rep. by Act 3 of 1951.

16. *Returns as to compensation.*—The ¹[State Government] may, by notification² in the Official Gazette, direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the ³[State Government] may direct.

17. *Contracting out.*—Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

18. *Proof of age.*—Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, a valid certificate granted in respect of such person under section 12 or section 52 of the Factories Act,⁴ 1934 (XXV of 1934), before the occurrence of the injury shall be conclusive proof of the age of such person.

18A. *Penalties.*—(1) Whoever—

(a) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or

(b) fails to send to the Commissioner statement which he is required to send under sub-section (2) of section 10A, or

(c) fails to send a report which he is required to send under section 10B, or

(d) fails to make a return which he is required to make under section 16,

shall be punishable with fine which may extend to one hundred rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

¹ Subs. for "Provincial Government" by L.A.O., 1950.

² Subs. by the Workmen's Compensation (Amendment) Act 1933 (15 of 1933), s. 12, for "the Commissioner."

³ For such notification making directions for the Workmen's Compensation Returns, see Notification No. L-1189, dated 28th March, 1935 (pub. in Gazette of India, 1935, Pt. I, p. 521); See also G.R.&O. Suppl. Vol. III, pp. 529-531 and at pp. 1020-1022, *infra*.

⁴ See now sec. 10 or 69, as the case may be, of the Factories Act 63 of 1948.

CHAPTER III.

COMMISSIONERS.

19. *Reference to Commissioners.*—(1) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by a Commissioner.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

20. *Appointment of Commissioners.*—(1) The '[State Government] may, by notification in the Official Gazette, appoint any person to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

(2) Where more than one Commissioner has been appointed for any local area, the '[State Government] may, by general or special order, regulate the distribution of business between them.

(3) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

(4) Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

21. *Venue of proceedings and transfer.*—(1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before a Commissioner for the local area in which the accident took place which resulted in the injury :

Provided that, where the workman is the master of a ship or a seaman, any such matter may be done by or before a Commissioner for the local area in which the owner or agent of the ship resides or carries on business.

(2) If a Commissioner is satisfied that any matter arising out of any proceedings pending before him can be more conveniently dealt with by any other Commissioner, whether in the same '[State] or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal,

¹ Subs. for "Provincial Government" by L.A.O., 1950.

² Subs. for "Province" by *ibid*.

and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings :

Provided that the Commissioner shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard :

Provided further that no matter other than a matter relating to the actual payment to a workman or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Commissioner in the same ²[State] save with the previous sanction of the ¹[State Government] or to a Commissioner in another ²[State] save with the previous sanction of the ¹[State Government] of that ²[State], unless all the parties to the proceedings agree to the transfer.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire thereinto and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

(5) The ¹[State Government] may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it.

22. *Form of application.*—(1) No application for the settlement of any matter by a Commissioner, other than an application by a dependant or dependants for compensation shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) An application to a Commissioner may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely :—

(a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims ;

¹ Subs. for "Provincial Government" by L.A.O., 1950.

² Subs. for "Province" by *ibid.*

(b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission ;

(c) the names and addresses of the parties ; and

(d) except in the case of an application by dependants for compensation a concise statement of the matters on which agreement has and of those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

22A. Power of Commissioner to require further deposit in cases of fatal accident.—(1) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

23. Powers and procedure of Commissioners.—The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

24. Appearance of parties.—Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or registered Trade Union authorised in writing by such person or, with the permission of the Commissioner, by any other person so authorised.

West Bengal Amendment.—After sec. 24 the following sections were inserted by the Workmen's Compensation (Bengal Amendment) Act 6 of 1942, namely:—

"24A. *Reference of disputed medical questions to a medical referee.*—

(1) If any question arises in any proceedings under this Act pending before the Commissioner as to—

- (a) the nature and extent of the permanent disablement of a workman, or
- (b) the duration of his temporary disablement, or

(c) whether the incapacity of a workman is due to personal injury by accident, or

(d) whether a workman has contracted any occupational disease specified in Schedule III,

the question shall, in default of agreement, on the joint application of both parties or on the application of either party in the prescribed manner, and on payment in the prescribed manner by the parties, or the party making the application, as the case may be, of the prescribed fees and expenses, be referred by the Commissioner to a medical referee appointed by him in his discretion from amongst the medical practitioners included in the list prepared under section 24B:

Provided that where an application is made by only one of the parties, if the Commissioner is of the opinion that the question is one which ought not on account of the exceptional difficulty of the case or for any other sufficient reason be referred to a medical referee, he may after recording his reasons in writing reject the application:

Provided further that if the parties themselves jointly select any medical practitioner included in the said list for appointment as the medical referee, the Commissioner shall, on payment of the prescribed fees and expenses in the prescribed manner, appoint that medical practitioner:

Provided further that a medical practitioner whose services have been used for the medical treatment of an injury by accident to a workman, or of an occupational disease specified in Schedule III contracted by such workman, by or on behalf of such workman or his employer or by or on behalf of any insurers interested in any proceeding under this Act arising out of such injury or disease, shall not act as a medical referee in any proceedings under this Act in respect of such injury or disease.

(2) The medical referee to whom such a reference is made under subsection (1) shall, in accordance with the prescribed rules, require the workman to submit to a medical examination by him or under his personal direction and shall personally or with such medical assistance as he may deem necessary examine the workman medically and send to the Commissioner who has made the reference a report in respect of the question specifically mentioned in the order of reference.

(3) If a workman refuses to submit himself for medical examination by or under the personal direction of the medical referee to whom a reference has been made under this section, or if a workman in any way obstructs the medical examination by or under the personal direction of the medical referee, the workman's right to compensation under this Act and his right to continue any proceedings under this Act shall be suspended until such examination has taken place.

(4) In any proceedings under this Act in which evidence is recorded, the report of the medical referee shall as between the parties to the proceedings be conclusive proof of the facts related therein within the meaning of section 4 of the Indian Evidence Act, 1872 (I of 1872):

Provided that such report shall not so be regarded as conclusive proof of the facts related therein if in the particular proceedings the Commissioner, either of his own motion or on application being made to him by either party, for reasons to be recorded by him in writing, deems it expedient in the interests of justice to allow the parties to adduce further evidence on such facts.

24B. *List of qualified medical practitioners for appointment as medical referees.*—The [State Government] shall prepare a list of qualified medical practitioners who may be appointed as medical referees under section 24A and shall publish the said list in the *Official Gazette*.

25. *Method of recording evidence.*—The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum

shall be written and signed by the Commissioner with his own hand and shall form part of the record :

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record :

Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.

26. *Costs.*—All costs, incidental to any proceedings before a Commissioner, shall, subject to rules made under this Act, be in the discretion of the Commissioner.

27. *Power to submit cases.*—A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

28. *Registration of agreements.*—(1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman or a person under a legal disability a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner :

Provided that—

(a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned :

[* * *]

(c) the Commissioner may at any time rectify the register :

(d) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act not-

withstanding anything contained in the Indian Contract Act, 1872 (IX of 1872), or in any other law for the time being in force.

29. *Effect of failure to register agreement.*—Where Memorandum of any agreement the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workmen by way of compensation whether under the agreement or otherwise.

30. *Appeals*—(1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:—

(a) an order awarding as compensation a lump sum whether by way redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

(b) an order refusing to allow redemption of a half-monthly payment;

(c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;

(d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or

(e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties:

Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall be applicable to appeals under this section.

30A. *Withholding of certain payments pending decision of*

appeal.—Where an employer makes an appeal under clause (a) of sub-section (1) of section 30, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.

31. *Recovery*.—The Commissioner may recover as an arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890 (I of 1890).

West Bengal Amendment.—After sec. 31 the following section was inserted by the Bengal Touts Act, 1942 (Ben. Act 5 of 1942), namely:—

"31A. *Application of section 36 of Act XVIII of 1879 to touts in office of the Commissioner*.—(1) The provisions of section 36 of the Legal Practitioners Act, 1879 (XVIII of 1879), shall, subject to the provisions of this section, be applicable, so far as may be, to the framing and publication of a list of touts, to the exclusion of touts included in the list from the precincts of the court of the Commissioner and to the arrest, detention, trial and punishment of such touts.

(2) A Commissioner shall, for the purposes of the said section 36, be deemed to be an authority referred to in sub-section (1) of that section.

(3) For the purposes of this section 'tout' means—

(a) a 'tout' as defined in clause (a) of section 3 of the Legal Practitioners Act, 1879; or

(b) a person who habitually frequents the precincts of the court of a Commissioner—

(i) for the purpose of procuring work as an agent under section 24, or

(ii) otherwise than as a party to or a witness in any proceedings before the Commissioner or as a *bona fide* agent appointed under section 24."

CHAPTER IV.

RULES.

32. *Power of the [State Government] to make rules*.—(1) The '[State Government]' may make rules¹ to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate ;

(b) for prescribing the intervals at which and the conditions

¹ Subs. for "Provincial Government" by L.A.O., 1950.

² For the Central rules, viz., the Workmen's Compensation Rules, 1924, see G. R. & O., Vol. V, p. 262 and p. 89 *et seq.* *Infra*.

The State Government of Bombay has also made rules under this Act. See the Bombay Workmen's Compensation Rules, 1934 and the Bombay Workmen's Compensation (Unclaimed Deposits) Rules, 1941.

subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11;

(c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;

(d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;

(e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;

(f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;

(g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered;

(h) for the withholding by Commissioners, whether in whole or in part of half-monthly payments pending decision on applications for review of the same;

(i) for regulating the scales of costs which may be allowed in proceedings under this Act;

(j) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act;

(k) for the maintenance by Commissioners of registers and records of proceedings before them;

(l) for prescribing the classes of employers who shall maintain notice-books under sub-section (3) of section 10, and the form of such notice-books;

(m) for prescribing the form of statement to be submitted by employers under section 10A; and

(n) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner.

West Bengal Amendment.—After cl. (f) of sub-sec. (2) of sec. 32 the following clauses were inserted by the Workmen's Compensation (Ben. Am.) Act 6 of 1942, namely:—

“(f) for prescribing the procedure relating to the reference of medical questions to medical referees under sub-section (1) of section 24A;”

“(f1) for regulating the procedure relating to the medical examination of a workman by or under the personal direction of a medical referee and the submission of the report of such medical referee, under sub-section (2) of section 24A;”

“(f2) for prescribing and determining the fees and expenses payable in connection with references of medical questions to medical referees under sub-section (1) of section 24A;”

33. [Power of Local Government to make rules.] Rep. by the A. O. 1937.

34. *Publication of rules.*—(1) The power to make rules conferred by section 32 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of rules proposed to be made under section 32 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Rules so made shall be published in the Official Gazette and on such publication, shall have effect as if enacted in this Act.

35. *Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.*—(1) The Central Government may, by notification², in the Official Gazette, make rules for the transfer '[* * * * *]' to any part of His Majesty's Dominions or to any other country of money deposited with a Commissioner under this Act which has been awarded to or may be due to, any person residing or about to reside in '[such part or country]' and for the receipt, distribution and administration in '[any State]' of any money deposited under the law relating to workmen's compensation '[* * * * *]' or in any part of His Majesty's Dominions or in any other country, which has been awarded to, or may be due to, any person residing or about to reside in '[any State]' :

Provided that no sum deposited under this Act in respect of fatal accidents shall be so transferred without the consent of the employer concerned until the Commissioner receiving the sum has passed orders determining its distribution and apportionment under the provisions of sub-sections (4) and (5) of section 8.

(2) Where money deposited with a Commissioner has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Act regarding distribution by the Commissioner of compensation deposited with him shall cease to apply in respect of any such money.

² For the Workmen's Compensation (Transfer of Money) Rules, 1935, see Gazette of India, 1935, Pt. I, p. 403; see also G. R. & O. Suppl. Vol. III, pp. 532-535; see also p. 1017 *et seq.*, *Infra*.

¹ The words "to any Part B State or" were rep. by Act 3 of 1951.

² Subs. for "such State, part or country" by Act 3 of 1951.

³ Subs. by Act 3 of 1951 for "a Part A State or Part C State" which had been subs. for "the Provinces" by I.A.O., 1950.

⁴ The words "in any Part B State" which had been subs. by I.A.O., 1950, for "in any Acceding State," were rep. by Act 3 of 1951.

SCHEDULE I.

[See sections 2 (1) and 4.]

List of injuries deemed to result in permanent partial disablement.

Injury.	Percentage of loss of earning capacity.
Loss of right arm above or at the elbow	70
Loss of left arm above or at the elbow	60
Loss of right arm below the elbow	60
Loss of leg at or above the knee	60
Loss of left arm below the elbow	50
Loss of leg below the knee	50
Permanent total loss of hearing	50
Loss of one eye	30
Loss of thumb	25
Loss of all toes of one foot	20
Loss of one phalanx of thumb	10
Loss of index finger	10
Loss of great toe	10
Loss of any finger other than index finger	5

NOTE.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

SCHEDULE II.

[See section 2 (1) (n).]

List of persons who, subject to the provisions of section 2 (1) (n), are included in the definition of workmen.

The following persons are workmen within the meaning of section 2 (1) (n) and subject to the provisions of that section, that is to say, any person who is—

(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity; or

(ii) employed otherwise than in a clerical capacity in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been employed in any manufacturing process, as defined in clause (g) of section 2 of the Factories Act,* 1934 (XXV of 1934), or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used; or

* See now cl. (h) of sec. 2 of the Factories Act 63 of 1948.

(iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed ; or

(iv) employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed ; or

(v) employed, in any mine as defined in clause (f) of section 3 of the Indian Mines Act,* 1923 (IV of 1923), in any mining operation, or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground ;

Provided that any excavation in which on no day of the preceding twelve months more than fifty persons have been employed or explosives have been used and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause ; or

(vi) employed as the master or as a seaman of—

(a) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled, or

(b) any ship not included in sub-clause (a) of fifty tons net tonnage or over ; or

(vii) employed for the purpose of loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or in the handling or transport within the limits of any port subject to the Indian Ports Act, 1908 (XV of 1908), of goods which have been discharged from or are to be loaded into any vessel ; or

(viii) employed in the construction, repair or demolition of—

(a) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof ; or

(b) any dam or embankment which is twenty feet or more in height from its lowest to its highest point ; or

(c) any road, bridge, or tunnel ; or

(d) any wharf, quay, sea-wall or other marine work including any moorings of ships ; or

* See now cl. (f) of sec. 2 of the Mines Act 35 of 1952.

(ix) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard for the same ; or

(x) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal pipe-line, or sewer ; or

(xi) employed in the service of any fire brigade ; or

(xii) employed upon a railway as defined in clause (4) of section 3, and sub-section (1) of section 148 of the Indian Railways Act, 1890 (IX of 1890), either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration ; or

(xiii) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service, or employed in any occupation ordinarily involving outdoor work in the Indian Posts and Telegraphs Department ; or

(xiv) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas ; or

(xv) employed in any occupation involving blasting operations ; or

(xvi) employed in the making of any excavation in which on any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet ; or

(xvii) employed in the operation of any ferry boat capable of carrying more than ten persons ; or

(xviii) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed ; or

(xix) employed, otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas ; or

(xx) employed in a lighthouse as defined in clause (d) of section 2 of the Indian Lighthouse Act, 1927 (XVII of 1927) ; or

(xxi) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures ; or

(xxii) employed in the training, keeping or working of elephants or wild animals ; or

(xxiii) employed in the tapping of palm-trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forest fires ; or

(xxiv) employed in operations for the catching or hunting of elephants or other wild animals; or

(xxv) employed as a driver; or

(xxvi) employed in the handling or transport of goods in, or within the precincts of,—

(a) any warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed, or

(b) any market in which on any one day of the preceding twelve months one hundred or more persons have been so employed; or

(xxvii) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radioactive substances.

Explanation.—In this Schedule, "the preceding twelve months" relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.

SCHEDULE III.

(See section 3.)

List of occupational diseases.

PART A.

Occupational disease.	Employment.
Anthrax	Any employment— (a) involving the handling of wool, hair, bristles or animal carcases or parts of such carcases, including hides, hoofs and horns; or (b) in connection with animals infected with anthrax; or (c) involving the loading, unloading or transport of any merchandise.
Compressed air illness or its sequelæ	Any process carried on in compressed air.
Poisoning by lead tetra-ethyl ..	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes ..	Any process involving exposure to nitrous fumes.

SCHEDULE III—(Contd.)
PART B.

Lead poisoning or its sequelæ excluding poisoning by lead tetra-ethyl.	Any process involving the use of lead or any of its preparations or compounds except tetra-ethyl.
Phosphorus poisoning or its sequelæ.	Any process involving the use of phosphorus or its preparations or compounds.
Mercury poisoning or its sequelæ.	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelæ of such poisoning.	Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues.
Chronic ulceration or its sequelæ.	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations.
Arsenical poisoning or its sequelæ.	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Pathological manifestations due to— (a) radium and other radio-active substances; (b) X-rays.	Any process involving exposure to the action of radium, radio-active substances or X-rays.
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.

SCHEDULE IV.

(See section 4.)

Compensation payable in certain cases.

Monthly wages of the workman injured.		Amount of compensation for:—		Half-monthly payment as compensation for temporary Disablement of Adult.
		Death of Adult.	Permanent Total Disablement of Adult.	
1		2	3	4
More than	But not more than			Half his monthly wages.
Rs.	Rs.	Rs.	Rs.	Rs. A.
0	10	500	700	5 0
10	15	550	770	6 0
15	19	600	840	7 0
19	21	630	882	8 0
21	24	720	1,008	8 8
24	27	810	1,134	9 0
27	30	900	1,260	9 8
30	35	1,050	1,470	10 0
35	40	1,200	1,680	11 4
40	45	1,350	1,890	12 8
45	50	1,500	2,100	15 0
50	60	1,800	2,520	17 8
60	70	2,100	2,940	20 0
70	80	2,400	3,360	25 0
80	100	3,000	4,200	30 0
100	200	3,500	4,900	30 0
200	300	4,000	5,600	30 0
300	..	4,500	6,300	30 0

THE WORKMEN'S COMPENSATION RULES, 1924¹

PRELIMINARY

1. *Short title.*—These rules may be called the Workmen's Compensation Rules, 1924.

2. *Definitions.*—In these rules unless there is anything repugnant in the subject or context,—

(a) "the Act" means the Workmen's Compensation Act, 1923 ;

(b) "Form" means a form appended to these rules ;

(c) "section" means a section of the Act.

PART I

REVIEW OF HALF MONTHLY PAYMENTS AND COMMUNICATION THEREOF

3. *When application may be made without medical certificate.*—Application for review of a half-monthly payment under section 6 may be made without being accompanied by a medical certificate—

(a) by the employer, on the ground that since the right compensation was determined the workmen's wages have increased ;

(b) by the workman, on the ground that since the right to compensation was determined his wages have diminished ;

(c) by workman, on the ground that the employer, having commenced to pay compensation, has ceased to pay the same, notwithstanding the fact that there has been no change in the workman's condition such as to warrant such cessation ;

(d) either by the employer or by the workman, on the ground that the determination of the rate of compensation for the time being in force was obtained by fraud or undue influence or other improper means ;

(e) either by the employer or by the workman on the ground that in the determination of compensation there is a mistake or error apparent on the face of the record.

4. *Procedure on application for review.*—If, on examining an application for review by an employer in which the reduction or discontinuance of half-monthly payments is sought it appears to the Commissioner that there is reasonable ground for believing that the employer has a right to such reduction or discontinuance, he may at any time issue an order withholding the half-monthly payments in whole or in part pending his decision on the application.

5. (1) *Procedure on application for commutation.*—Where application is made to the Commissioner under section 7 for the redemption of a right to receive half-monthly payments by the payment of a lump sum, the Commissioner shall form an estimate of the probable duration

¹ See Government of India, Department of Industries and Labour, Notification No. L-1182, dated 26-6-1924, as subsequently amended.

of the disablement, and shall award a sum equivalent to the total of the half-monthly payments which would be payable for the period during which he estimates that the disablement will continue, less one-half per cent. of that total for each month comprised in that period :

Provided that fractions of a rupee included in the sum so computed shall be disregarded.

(2) When, in any case to which sub-rule (1) applies, the Commissioner is unable to form an approximate estimate of the probable duration of the disablement, he may from time to time postpone a decision on the application for a period not exceeding two months at any one time.

PART II

DEPOSIT OF COMPENSATION

6. *Deposit under section 8 (1).—*(1) An employer depositing compensation with the Commissioner under sub-section (1) of section 8, in respect of a workman whose injury has resulted in death shall furnish therewith a statement in Form A, and shall be given a receipt in Form B. In other cases of deposits with the Commissioner under sub-section (1) of section 8, the employer shall furnish a statement in form AA, and shall be given a receipt in Form B.

(2) If, when depositing compensation in respect of fatal accidents, the employer indicates in the statement referred to in sub-rule (1) that he desires to be made a party to the distribution proceedings, the Commissioner shall, before allotting the sum deposited as compensation, afford to the employer an opportunity of establishing that the person to whom he proposes to allot such sum is not a dependant of the deceased workman or, as the case may be, that no one of such person is a dependant.

(3) The statement of disbursements to be furnished on application by the employer under sub-section (4) of section 8 shall be in Form C.

7. *Publication of lists of deposits.*—The Commissioner shall cause to be displayed in a prominent position outside his office an accurate list of the deposits received by him under sub-section (1) of section 8, together with the names and addresses of the depositors and of the workmen in respect of whose death or injury the deposits have been made.

8. (1) *Application by dependants for deposit of compensation.*—A dependant of a deceased workman may apply to the Commissioner for the issue of an order to deposit compensation in respect of the death of the workman. Such application shall be made in Form G.

(2) If compensation has not been deposited the Commissioner

shall dispose of such application in accordance with the provisions of Part V of these rules :

Provided that—

(a) the Commissioner may, at any time before issues are framed, cause notice to be given in such manner as he thinks fit to all or any of the dependants of the deceased workman who have not joined in the application, requiring them, if they desire to join therein, to appear before him on a date specified in this behalf :

(b) any dependant to whom such notice has been given and who fails to appear and to join in the application on the date specified in the notice shall not be permitted thereafter to claim that the employer is liable to deposit compensation unless he satisfies the Commissioner that he was prevented by any sufficient cause from appearing when the case was called on for hearing.

(c) If, after completing the enquiry into the application, the Commissioner issues an order requiring the employer to deposit compensation in accordance with sub-section (1) of section 8, nothing in sub-rule (2) shall be deemed to prohibit the allotment of any part of the sum deposited as compensation to a dependant of the deceased workman who failed to join the application.

9. *Deposit under section 8 (2).*—An employer depositing compensation in accordance with sub-section (2) of section 8, shall furnish therewith a statement in Form D ; and shall be given a receipt in Form E.

10. *Investment of money.*—Money in the hands of Commissioner may be invested for the benefit of the dependants of deceased workman in Government securities or Post Office Cash Certificates, or may be deposited in a Post Office Savings Bank.

PART III

REPORTS OF ACCIDENTS

11. *Report of fatal accidents.*—The report required by section 10B shall, subject to such rules, if any, as may be made by the State Government, be in Form EE.

12. *Right of employer to present memorandum when information received.*—(1) Any employer who has received information of an accident may at any time, notwithstanding the fact that no claim for compensation has been instituted in respect of such accident, present to the Commissioner a memorandum, supported by an affidavit made by himself or by any person subordinate to him having knowledge of the facts stated in the memorandum, embodying the results of any investi-

gation or inquiry which has been made into the circumstances or cause of the accident.

(2) A memorandum presented under sub-rule (1) shall, subject to the payment of such fee as may be prescribed, be recorded by the Commissioner.

PART IV

MEDICAL EXAMINATION

13. *Workman not to be required to submit to medical examination save in accordance with rules.*—A workman who is required by sub-section (1) of section 11 to submit himself for medical examination shall be bound to do so in accordance with the rules contained in this Part and not otherwise.

14. *Examination when workman and medical practitioner both on premises.*—When such workman is present at the employer's premises, and the employer offers to have him examined free of charge by a qualified medical practitioner who is so present, the workman shall submit himself for examination forthwith.

15. *Examination in other cases.*—In cases to which rule 14 does not apply the employer may—

(a) send the medical practitioner to the place where the workman is residing for the time being in which case the workman shall submit himself for medical examination on being requested to do so by the medical practitioner; or

(b) send to the workman an offer in writing to have him examined free of charge by a qualified medical practitioner, in which case the workman shall submit himself for medical examination at the employer's premises or at such other place in the vicinity as is specified in such offer and at such time as is so specified.

Provided that—

(i) the time so specified shall not, save with the express consent of the workman, be between the hours of 7 P.M. and 6 A.M., and

(ii) in cases where the workman's condition renders it impossible or inadvisable that he should leave the place where he is residing for the time being, he shall not be required to submit himself for medical examination save at such place.

16. *Restriction on number of examinations.*—A workman who is in receipt of a half-monthly payment shall not be required to submit himself for medical examination elsewhere than at the place where he is residing for the time being more than twice in the first month following the accident or more than once in any subsequent month.

17. *Examination after suspension of right to compensation.*—If a workman whose right to compensation has been suspended under

sub-section (2) or sub-section (3) of section 11 subsequently offers himself for medical examination, his examination shall take place on the employer's premises or at such other place in the vicinity as may be fixed by the employer, and at a time to be fixed by the employer not being, save with the express consent of the workman, more than 72 hours after the workman has so offered himself.

18. *Examination of women.*—(1) No woman shall without her consent be medically examined by a male practitioner, save in the presence of another woman.

(2) No woman shall be required to be medically examined by a male practitioner if she deposits a sum sufficient to cover the expenses of examination by a female practitioner.

PART V

PROCEDURE

19. *Introductory.*—Save as otherwise provided in these rules, the procedure to be followed by Commissioners in the disposal of cases under the Act or these rules and by the parties in such cases shall be regulated in accordance with the rules contained in this Part.

20. *Applications.*—(1) Any application of the nature referred to in section 22 may be sent to the Commissioner by registered post or may be presented to him or to any of his subordinates authorised by him in this behalf and, if so sent or presented, shall, unless the Commissioner otherwise directs, be made in duplicate in the appropriate Form, if any, and shall be signed by the applicant.

(2) There shall be appended to every such application a certificate, which shall be signed by the applicant, to the effect that the statement of facts contained in the application is to the best of his knowledge and belief accurate.

21. *Production of documents.*—(1) When the application for relief is based upon a document, the document shall be appended to the application.

(2) Any other document which any party desires to tender in evidence shall be produced at or before the first hearing.

(3) Any document which is not produced at or within the time specified in sub-rule (1) or (2) as the case may be shall not, without the sanction of the Commissioner, be admissible in evidence on behalf of the party who should have produced it.

(4) Nothing in this rule applies to any document which is produced for the purpose of cross-examining a witness or is handed to a witness to refresh his memory.

22. *Application presented to wrong Commissioner.*—(1) If it appears to the Commissioner on receiving application that it should be presented to another Commissioner, he shall return it to the applicant after endorsing upon it the date of the presentation and return, the reason for returning it and designation of the Commissioner to whom it should be presented.

(2) If it appears to the Commissioner at any subsequent stage that an application should have been presented to another Commissioner, he shall send the application to the Commissioner empowered to deal with it and shall inform the applicant (and the opposite party, if he has received a copy of the application under rule 26), accordingly.

(3) The Commissioner to whom an application is transferred under sub-rule (2) may continue the proceedings as if the previous proceedings or any part of them had been taken before him, if he is satisfied that the interests of the parties will not thereby be prejudiced.

23. *Examination of applicant.*—(1) On receiving an application of the nature referred to in section 22, the Commissioner may examine the applicant on oath, or may send the application to any officer authorised by the State Government in this behalf and direct such officer to examine the applicant and his witnesses and forward the record thereof to the Commissioner.

(2) The substance of any examination made under sub-rule (1) shall be recorded in the manner provided for the recording of evidence in section 25.

24. *Summary dismissal of application.*—(1) The Commissioner may, after considering the application and the result of any examination of the applicant under rule 23, summarily dismiss the application, if, for reasons to be recorded, he is of opinion that there are no sufficient grounds for proceeding thereon.

(2) The dismissal of the application under sub-rule (1) shall not of itself preclude the applicant from presenting a fresh application for the settlement of the same matter.

25. *Preliminary inquiry into application.*—If the application is not dismissed under rule 24, the Commissioner may, for reasons to be recorded, call upon the applicant to produce evidence in support of the application before calling upon any other party, and, if upon considering such evidence the Commissioner is of opinion that there is no case for the relief claimed, he may dismiss the application with a brief statement of his reasons for so doing.

26. *Notice to opposite party.*—If the Commissioner does not dismiss the application under rule 24 or rule 25, he shall send to the party from whom the applicant claims relief (hereinafter referred to as the

opposite party) a copy of the application, together with a notice of the date on which he will dispose of the application, and may call upon the parties to produce upon that date any evidence which they may wish to tender.

27. *Appearance and examination of opposite party.*—(1) The opposite party may, and if so required by the Commissioner, shall, at or before the first hearing or within such time as the Commissioner may permit, file a written statement dealing with the claim raised in the application, and any such written statement shall form part of the record.

(2) If the opposite party contests the claim, the Commissioner may, and, if no written statement has been filed, shall proceed to examine him upon the claim, and shall reduce the result of examination to writing.

28. *Framing of issues.*—(1) After considering any written statement and the result of any examination of the parties, the Commissioner shall ascertain upon what material propositions of fact or of law the parties are at variance and shall thereupon proceed to frame and record the issues upon which the right decision of the case appears to him to depend.

(2) In recording the issues, the Commissioner shall distinguish between those issues which in his opinion concern points of facts and those which concern points of law.

29. *Power to postpone trial of issues of fact where issues of law arise.*—When issues both of law and of fact arise in the same cause, and the Commissioner is of opinion that the case may be disposed of on the issues of law only, he may try those issues first, and for that purpose may, if he thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

30. *Diary.*—The Commissioner shall maintain under his hand a brief diary of the proceedings on an application.

31. *Reasons for postponement to be recorded.*—If the Commissioner finds it impossible to dispose of an application at one hearing he shall record the reasons which necessitate a postponement.

32. *Judgment.*—(1) The Commissioner, in passing orders, shall record concisely in a judgment his finding on each of the issues framed and his reasons for such finding.

(2) The Commissioner, at the time of signing and dating his judgment, shall pronounce his decision, and thereafter no addition or alteration shall be made to the judgment other than the correction of a clerical or arithmetical mistake arising from any accidental slip or omission.

33. *Summoning of witnesses.*—If an application is presented by any party to the proceedings for the citation of witnesses, the Commissioner shall on payment of the prescribed expenses and fees, issue summonses for the appearance of such witnesses, unless he considers that their appearance is not necessary for the just decision of the case.

34. *Exemption from payment of costs.*—If the Commissioner is satisfied that the applicant is unable, by reason of poverty, to pay the prescribed fees, he may remit any or all of such fees. If the case is decided in favour of the applicant, the prescribed fees which, had they not been remitted, would have been due to be paid, may be added to the costs of the case and recovered in such manner as the Commissioner in his order regarding costs may direct.

35. *Right of entry for local inspection.*—A Commissioner before whom any proceeding relating to an injury by accident is pending may at any time enter the place where the workman was injured, or where the workman ordinarily performed his work, for the purpose of making a local inspection or of examining any persons likely to be able to give information relevant to the proceedings :

Provided that the Commissioner shall not enter any premises of any industrial establishment except during the ordinary working hours of that establishment, save with the permission of the employer or of some person directly responsible to him for the management of the establishment.

36. *Procedure in connection with local inspection.*—(1) If the Commissioner proposes to conduct a local inspection with a view to examining on the spot the circumstances in which an accident took place, he shall give the parties or their representatives notice of his intention to conduct such inspection, unless in his opinion the urgency of the case renders the giving of such notice impracticable.

(2) Such notice may be given orally or in writing, and, in the case of an employer, may be given to any person upon whom notice of a claim can be served under sub-section (2) of section 10, or the representative of any such person.

(3) Any party, or the representative of any party, may accompany the Commissioner at a local inspection.

(4) The Commissioner, after making a local inspection, shall note briefly in a memorandum any facts observed, and shall show the memorandum to any party who desires to see the same, and, on payment of the prescribed fee shall supply any party with a copy thereof.

(5) The memorandum shall form part of the record.

37. *Power of summary examination.*—(1) The Commissioner during a local inspection or at any other time, save at a formal hearing of a case pending before him, may examine summarily any person

likely to be able to give information relative to such case, whether such person has been or is to be called as a witness in the case or not, and whether any or all of the parties are present or not.

(2) No oath shall be administered to a person examined under sub-rule (1).

(3) Statements made by persons examined under sub-rule (1), if reduced to writing, shall not be signed by the person making the statement, nor shall they except as hereinafter provided, be incorporated in the record or utilised by the Commissioner for the purpose of arriving at a decision in the case.

(4) If a witness who has been examined under sub-rule (1), makes in evidence any material statement contradicting any statement made by him in such examination and reduced to writing, the Commissioner may call his attention to such statement, and shall in that case direct that the parties be furnished with the relevant part of such statement for the purpose of examining or cross-examining the witness.

(5) Any statement or part of a statement which is furnished to the parties under sub-rule (4), shall be incorporated in the record.

(6) Where a case is settled by agreement between the parties, the Commissioner may incorporate in the record any statement made under sub-rule (1) and may utilise such statement for the purpose of justifying his acceptance of, or refusal to accept, the agreement reached.

38. *Agreement to abide by Commissioner's decision.*—(1) If a party states in writing his willingness to abide by the decision of the Commissioner, the Commissioner shall inquire whether the other party is willing to abide by his decision.

(2) If the other party agrees to abide by the Commissioner's decision, the fact of his agreement shall be recorded in writing and signed by him.

(3) If the other party does not agree to abide by the Commissioner's decision, the first party shall not remain under an obligation so to abide.

39. *Procedure where indemnity claimed under section 12(2).*—(1) Where the opposite party claims that if compensation is recovered against him he will be entitled under sub-section (2) of section 12 to be indemnified by a person not being a party to the case, he shall, when first called upon to answer the application present a notice of such claim to the Commissioner accompanied by the prescribed fee, and the Commissioner shall thereupon issue notice to such person in Form J.

(2) If any person served with a notice under sub-section (1) desires to contest the applicant's claim for compensation or the opposite

party's claim to be indemnified, he shall appear before the Commissioner on the date fixed for the hearing of the case or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings ; in default of so appearing he shall be deemed to admit the validity of any award made against the opposite party and to admit his own liability to indemnify the opposite party for any compensation recovered from him :

Provided that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall, after giving notice to the aforesaid opposite party, hear such person, and may set aside or vary any award made against such person under this rule upon such terms as may be just.

(3) If any person served with a notice under sub-rule (1) whether or not he desires to contest the applicant's claim for compensation or the opposite party's claim to be indemnified, claims that being a contractor he is himself a principal and is entitled to be indemnified by a person standing to him in the relation of a contractor from whom the workman could have recovered compensation he shall on or before the date fixed in the notice under sub-rule (1) present a notice of such claim to the Commissioner accompanied by the prescribed fee and the Commissioner shall thereupon issue notice to such person in Form JJ.

(4) If any person served with a notice under sub-rule (3) desires to contest the applicant's claim for compensation, or the claim under sub-rule (3) to be indemnified he shall appear before the Commissioner on the date fixed in the notice in Form JJ or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings ; in default of so appearing he shall be deemed to admit the validity of any award made against the original opposite party or the person served with a notice under sub-rule (1) and to admit his own liability to indemnify the party against whom such award is made for any compensation recovered from him : Provided that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall, after giving notice to all parties on the record, hear such person, and may set aside or vary any award made against such person under this rule upon such terms as may be just.

(5) In any proceeding in which a notice has been served on any person under sub-rule (1) or sub-rule (3) the Commissioner shall, if

he awards compensation, record in his judgment a finding in respect of each of such persons whether he is or is not liable to indemnify any of the opposite parties, and shall specify the party, if any, whom he is liable to indemnify.

40. *Procedure in connected cases.*—(1) Where two or more cases pending before a Commissioner arise out of the same accident, and any issue involved is common to two or more such cases, such cases may, so far as the evidence bearing on such issue is concerned, be heard simultaneously.

(2) Where action is taken under sub-rule (1) the evidence bearing on the common issue or issues shall be recorded on the record of one case, and the Commissioner shall certify under his hand on the records of any such other case, the extent to which the evidence so recorded applies to such other case, and the fact that the parties to such other case had the opportunity of being present, and, if they were present of cross-examining the witnesses.

41. *Certain provisions of Code of Civil Procedure, 1908, to apply.*—Save as otherwise expressly provided in the Act or these rules the following provisions of the First Schedule to the Code of Civil Procedure, 1908, namely, those contained in Order V, rules 9 to 13 and 15 to 30; Order IX; Order XIII, rules 3 to 10; Order XVI, rules 2 to 21; Order XVII; and Order XXIII, rules 1 and 2, shall apply to proceedings before Commissioners, in so far as they may be applicable thereto:

Provided that—

(a) for the purpose of facilitating the application of the said provisions the Commissioner may construe them with such alterations not affecting the substance as may be necessary or proper to adapt them to the matter before him;

(b) the Commissioner may, for sufficient reasons, proceed otherwise than in accordance with the said provisions, if he is satisfied that the interests of the parties will not thereby be prejudiced.

42. *Provision regarding signature of forms.*—Any form, other than a receipt for compensation, which is by these rules required to be signed by a Commissioner may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

43. *Apportionment of compensation among dependants.*—The provisions of this Part, except those contained in rules 26, 27 and 30 shall, as far as may be, apply in the case of any proceedings relating to the apportionment of compensation among dependants of a deceased workman.

PART VI

TRANSFER

44. *Transfer for report.*—(1) A Commissioner transferring any matter to another Commissioner for report in accordance with sub-section (2) of section 21 shall, along with the documents referred to in that sub-section, transmit to such other Commissioner a concise statement, in the form of questions for answer, of the matter on which report is required.

(2) A Commissioner to whom a case is so transferred for report shall not be required to report on any question of law.

45. *Transmission of money.*—Money transmitted by one Commissioner to another in accordance with sub-section (2) of section 21 shall be transmitted either by remittance transfer receipt, or by money order, or by messenger, as the Commissioner transmitting the money may direct.

PART VII

APPOINTMENT OF REPRESENTATIVES

46. *When representative must be appointed.*—Where any party to a proceeding is under the age of 15 years or is unable to make an appearance, the Commissioner shall appoint some suitable person, who consents to the appointment, to represent such party for the purposes of the proceeding.

47. *When new representative to be appointed.*—If the Commissioner considers that the interests of any party for whom a representative has been appointed under rule 46 are not being adequately protected by that representative or if a person appointed to act as representative dies or becomes incapable of acting, or otherwise ceases to act as such, the Commissioner shall appoint in his place another person who consents to the appointment.

PART VIII

RECORD OF MEMORANDA OF AGREEMENT

48. *Form of Memorandum.*—Memoranda of agreement sent to the Commissioner under sub-section (1) of section 28 shall unless the Commissioner otherwise directs be in duplicate, and shall be in as close conformity as the circumstances of the case admit with Form K or Form L or Form M as the case may be.

49. *Procedure where Commissioner does not consider that he should refuse to record memorandum.*—(1) On receiving a memorandum of agreement, the Commissioner shall, unless he considers that there are grounds for refusing to record the memorandum, fix a date for record-

ing the same, and shall issue a notice in writing in Form N to the parties concerned that in default of objections he proposes to record the memorandum on the date so fixed :

Provided that the notice may be communicated orally to any parties who are present at the time when notice in writing would otherwise issue.

(2) On the date so fixed, the Commissioner shall record the memorandum unless, after hearing any of the parties who appear and desire to be heard, he considers that it ought not to be recorded :

Provided that the issue of a notice under sub-rule (1) shall not be deemed to prevent the Commissioner from refusing to record the memorandum on the date so fixed even if no objection be made by any party concerned.

(3) If on such date the Commissioner decides that the memorandum ought not to be recorded, he shall inform the parties present of his decision and of the reasons therefor, and, if any party desiring the memorandum to be recorded is not present, he shall send information to that party in Form O.

50. *Procedure where Commissioner considers he should refuse to record memorandum.*—(1) If, on receiving a memorandum of agreement, the Commissioner considers that there are grounds for refusing to record the same, he shall fix a date for hearing the party or parties desiring the memorandum to be recorded, and shall inform such party or parties and, if he thinks fit, any other party concerned, of the date so fixed and of the grounds on which he considers that the memorandum should not be recorded.

(2) If the parties to be informed are not present, a written notice shall be sent to them in Form P or Form Q, as the case may be, and the date fixed in such notice shall be not less than seven days after the date of the issue of the same.

(3) If, on the date fixed under sub-rule (1) the party or parties desiring the memorandum to be recorded show adequate cause for proceeding to the record of the same, the Commissioner may, if information has already been given to all the parties concerned, record the agreement. If information has not been given to all such parties, he shall proceed in accordance with rule 49.

(4) If, on the date so fixed, the Commissioner refuses to record the memorandum, he shall send notice in Form O to any party who did not receive information under sub-rule (1).

51. *Procedure on refusal to record memorandum.*—(1) If in any case the Commissioner refuses to record a memorandum of agreement, he shall briefly record his reasons for such refusal.

(2) If the Commissioner refuses to record a memorandum of agreement, he shall not pass any order directing the payment of any sum or amount over and above the sum specified in the agreement, unless opportunity has been given to the party liable to pay such sum to show cause why it should not be paid.

(3) Where the agreement is for the redemption of half-monthly payments by the payment of a lump sum, and the Commissioner considers that the memorandum of agreement should not be recorded by reason of the inadequacy of the amount of such sum as fixed in the agreement, he shall record his estimate of the probable duration of the disablement of the workman.

52. *Registration of memorandum accepted for record.*—In recording a memorandum of agreement, the Commissioner shall cause the same to be entered in a register in Form R and shall cause an endorsement to be entered under his signature on a copy of the memorandum to be retained by him in the following terms, namely :—

"This memorandum of agreement bearing Serial No. _____ of 19 _____ in the register has been recorded this _____ day of _____

(Signature)

Commissioner".

FORM A

[See rule 6(1)]

DEPOSIT OF COMPENSATION FOR FATAL ACCIDENT

[Section 8(1) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs..... is hereby presented for deposit in respect of injuries resulting in the death of the Workman, whose particulars are given below, which occurred on.....

Name.....

Father's name.....

(Husband's name in case of married woman and widow.)

Caste.....

Local address.....

Permanent address.....

His monthly wages are estimated at Rs..... He
 Her She

was $\frac{\text{over}}{\text{under}}$ the age of 15 years at the time of $\frac{\text{His}}{\text{Her}}$ death.

2. The said workman had, prior to the date of his/her death received the following payments, namely:—

Rs.....on.....Rs.....on.....

Rs.....on.....Rs.....on.....

Rs.....on.....Rs.....on.....

amounting in all to Rs.....

3. An advance of Rs..... has been made on account of compensation to..... being $\frac{\text{his}}{\text{her}}$ dependant.

4. *I do not desire to be made a party to the proceedings for distribution of the aforesaid compensation.

Dated.....19..

.....
Employer.

* An employer desiring to be made a party to the proceedings should strike out the words "do not."

FORM AA.

[See rule 6(1)]

DEPOSIT OF COMPENSATION FOR NON-FATAL ACCIDENT TO A WOMAN OR PERSON
UNDER LEGAL DISABILITY

[Section 8(1) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs..... is hereby presented
for deposit in respect of injuries sustained by..... residing
at..... on..... 19..... resulting in
the loss of..... His
temporary disablement. Her monthly wages are estimated at Rs.....
He was over the age of 15 years at the time of the accident.
She was under

2. The said injured workman has prior to the date of the deposit received
the following half-monthly payments, namely:—

Rs..... on..... Rs..... on.....

Rs..... on..... Rs..... on.....

Rs..... on..... Rs..... on.....

Dated..... 19.....

.....
Employer.

FORM B

[See rule 6]

RECEIPT FOR COMPENSATION

[Deposited under section 8(1) of the Workmen's Compensation Act, 1923]

Book No.

Receipt No.

Register No.

Depositer.....

Deceased or injured workman.....

Date of deposit..... 19.....

Sum deposited Rs.....

.....
Commissioner.

FORM C

[See rule 6]

STATEMENT OF DISBURSEMENTS

[Section 8(4) of the Workmen's Compensation Act, 1923]

Serial No.

Depositor.....

Date

Rs.

Amount deposited.....

Amount deducted and repaid to the employer under the proviso to
section 8 (1).....

Funeral expenses paid.....

Compensation paid to the following dependants:—

Name

Relationship

Total

Dated.....19 .

.....
Commissioner.

FORM D

[See rule 9]

DEPOSIT OF COMPENSATION FOR NON-FATAL ACCIDENTS, OTHER THAN
TO A WOMAN OR PERSON UNDER LEGAL DISABILITY

[Section 8(2) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs.....is hereby presented for
 deposit in respect of ^{permanent} temporary injuries sustained by.....
residing at.....
 which occurred on.....19 .

.....
Employer.

Dated.....19 .

FORM E

[See rule 9]

RECEIPT FOR COMPENSATION

[Deposited under section 3(2) of the Workmen's Compensation Act, 1923]

Book No.

Receipt No.

Register No.

Depositor.....

In favour of.....

Date of deposit..... 19 ..

Sum deposited Rs.....

Commissioner.

FORM EE

[See rule 11]

REPORT OF FATAL ACCIDENTS

To

Sir,

I have the honour to submit the following report of an accident which occurred on.....(date), at.....(here enter details of premises);.....and which resulted in the death of the workman of whom particulars are given in the statement annexed. workmen

2. The circumstances attending the death of the workman were as under:—
workmen

- (a) Time of the accident;
- (b) Place where the accident occurred;
- (c) Manner in which deceased was/were employed at the time;
- (d) Cause of the accident;
- (e) Any other relevant particulars.

I have, etc.

Signature and designation of person making the report.

Statement

Name	Sex	Age	Nature of employment	Full postal address

FORM F
[See rule 20]

APPLICATION FOR COMPENSATION BY WORKMAN
To the Commissioner for Workmen's Compensation.

.....residing at.....applicant

VERSUS

.....residing at.....opposite party

It is hereby submitted that—

- (1) the applicant, a workman employed by (a contractor with) the opposite party on the.....day of.....19.....received personal injury by accident arising out of and in the course of his employment.

The cause of the injury was (*here insert briefly in ordinary language the cause of the injury*).....

- (2) the applicant sustained the following injuries, namely:—

- (3) the monthly wages of the applicant amounts to Rs.....

The applicant is ^{over} under the age of 15 years.

- * (4) (a) Notice of the accident was served on the.....day of.....

(b) Notice was served as soon as practicable.

(c) Notice of the accident was not served (in due time) by reason of.....

- (5) the applicant is accordingly entitled to receive—

(a) half monthly payment of Rs.....from the.....day of.....19.....to.....

(b) a lump sum payment of Rs.....

- (6) the applicant has taken the following steps to secure a settlement by agreement, namely.....

but it has proved impossible to settle the questions in dispute because.....

*You are therefore requested to determine the following questions in dispute, namely:—

- (a) whether the applicant is a workman within the meaning of the Act;
(b) whether the accident arose out of or in the course of the applicant's employment;
(c) whether the amount of compensations claimed is due, or any part of that amount;
(d) whether the opposite party is liable to pay such compensation as is due;
(e) etc., (as required).

Dated.....19

.....Applicant.

FORM G

(See rule 20)

APPLICATION FOR ORDER TO DEPOSIT COMPENSATION

To the Commissioner for Workmen's Compensation,

residing at

applicant

versus

residing at

opposite party

It is hereby submitted that—

(1) a workman employed by (a contractor with) the opposite party on the day of 19..... received personal injury by accident arising out of and in the course of his employment resulting in his death on the day of 19..... The cause of the injury was (*here insert briefly in ordinary language the cause of the injury*).....

(2) The applicant(s) ^{is a} ~~are~~ dependant(s) of the deceased workman being his.....

(3) The monthly wages of the deceased amount to Rs.....

The deceased was ^{over} ~~under~~ the age of 15 years at the time of his death.

* (4) (a) Notice of the accident was served on the day of.....

(b) Notice was served as soon as practicable.

(c) Notice of the accident was not served (in due time) by reason of.....

(5) The deceased before his death received as compensation the total sum of Rs.....

The applicant(s) ^{is} ~~are~~ accordingly entitled to receive a lump sum payment of Rs.....

You are therefore requested to award to the applicant the said compensation or any other compensation to which he may be entitled.

Dated.....19.....

Applicant.

* Strike out the clauses which are not applicable.

FORM H

[See rule 20]

APPLICATION FOR COMMUTATION

(Under section 7 of the Workmen's Compensation Act, 1923)

To the Commissioner for Workmen's Compensation,

residing at

applicant.

terms

residing at

opposite party.

It is hereby submitted that—

- applicant
- (1) The opposite party has been in receipt of half-monthly payments from.....to.....in respect of temporary disablement by accident arising out of and in the course of his employment.
 - (2) The applicant is desirous that the right to receive half-monthly payments should be redeemed.
 - (3) (a) The opposite party is unwilling to agree to the redemption of the right to receive half-monthly payments.
 - (b) The parties have been unable to agree regarding the sum for which the right to receive half-monthly payments should be redeemed.

You are therefore requested to pass orders—

- (a) directing that the right to receive half-monthly payments should be redeemed,
- (b) fixing a sum for the redemption of the right to receive half-monthly payments.

.....Applicant.

Dated.....19 .

FORM J

[See rule 39]

NOTICE

Whereas a claim for compensation has been made by.....
 applicant, against.....and the said.....
 has claimed that you are liable under section 12 (2) of the Workmen's Compensation Act, 1923, to indemnify him against any compensation which he may be liable to pay in respect of the aforesaid claim, you are hereby informed that you may appear before me on.....and contest the claim for compensation made by the said applicant or the claim for indemnity made by the opposite party. In default of your appearance you will be deemed to admit the validity of any award made against the opposite party and your liability to indemnify the opposite party for any compensation recovered from him.

.....
Commissioner.

Dated.....19 ..

FORM JJ

[See rule 39]

NOTICE

Whereas a claim for compensation has been made by.....
 applicant, against.....and the said.....has
 claimed that.....is liable under section 12 (2) of the
 Workmen's Compensation Act, 1923, to indemnify him against any compensation
 which he may be liable to pay in respect of the aforesaid claim, and whereas the
 said.....on notice served has claimed that you.....
 stand to him in the relation of a contractor from
 whom the applicant.....could have recovered compensation
 you are hereby informed that you may appear before me on.....
 and contest the claim for compensation made by the said applicant or the claim
 for indemnity made by the opposite party.....In
 default of your appearance you will be deemed to admit the validity of any award
 made against the opposite party.....and your liability to
 indemnify the opposite party.....for any compensation
 recovered from him.

.....
Commissioner.

Dated.....19 ..

FORM K

[See rule 48]

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the.....day of.....
 19..... personal injury was caused to.....residing at
by accident arising out of and in the course of
 employment in..... The said injury has
 resulted in temporary disablement to the said workman whereby it is estimated
 that he will be prevented from earning more than of his previous wage for a
 period.....months. The said workman has been in receipt of
 half-monthly payments which have continued from the.....
 day of.....19.....until the.....day of
19.....amounting to Rs.....in all.
 The said workman's monthly wages are estimated at Rs..... The
 workman is over the age of 15 years.
will reach the age of 15 years on.....

It is further submitted that.....the employer of the said work-
 man, has agreed to pay, and the said workman has agreed to accept the sum of
 Rs.....in full settlement of all and every claim under the
 Workmen's Compensation Act, 1923, in respect of all disablement of a temporary
 nature arising out of the said accident, whether now or hereafter to become mani-
 fest. It is therefore requested that this memorandum be duly recorded.
 Dated.....

Signature of employer.....

Witness.....

Signature of workman.....

Witness.....

(NOTE.—An application to register an agreement can be presented under the
 signature of one party, provided that the other party has agreed to the terms.
 But both signatures should be appended, whenever possible).

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum
 of Rs.....



.....Workman.

Dated.....19.....

The money has been paid and this receipt signed in my presence.

.....Witness.

NOTE.—This form may be varied to suit special cases, e.g., injury by occupa-
 tional disease, agreement when workman is under legal disability, etc.

FORM L

[See rule 42.]

MEMORANDUM OF AGREEMENT.

It is hereby submitted that on the.....day of.....
 19.....personal injury was caused to.....residing at
by accident arising out of and in the course of his
 employment in.....
 The said injury has resulted in permanent disablement to the said workman of
 the following nature, namely:
 The said workman's monthly wages are estimated at Rs.....
 is over the age of 15 years.
 The workman.....will reach the age of 15 years on.... The said workman has,
 prior to the date of this agreement, received the following payments, namely:—

Rs.....on.....Rs.....on.....

Rs.....on.....Rs.....on.....

Rs.....on.....Rs.....on.....

It is further submitted that.....the employer of the said
 workman, has agreed to pay, and the said workman has agreed to accept the sum
 of Rs.....in full settlement of all and every claim under the
 Workmen's Compensation Act, 1923, in respect of the disablement stated above
 and all disablement now manifest. It is therefore requested that this memoran-
 dum be duly recorded.

Dated.....19.....

Signature of employer.....

Witness.....

Signature of workman.....

Witness.....

(NOTE.—An application to register an agreement can be presented under the
 signature of one party, provided that the other party has agreed to the terms.
 But both signatures should be appended, whenever possible.)

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Rs.



....., Workman.

Dated.....19 ..

The money has been paid and this receipt signed in my presence.

....., Witness.

NOTE.—This form may be varied to suit special cases, e.g., injury by occupational disease, agreement when workman is under legal disability, etc.

FORM M.

[See rule 48.]

MEMORANDUM OF AGREEMENT.

It is hereby submitted that on the.....day of.....
19.....personal injury was caused to.....
residing at.....by accident arising out of and in the course of
employment in.....

The said injury has resulted in temporary disablement to the said workman, who
is at present in receipt of wages amounting to Rs.—per month
no wages The said work-
man's monthly wages prior to the accident are estimated at Rs.....
The workman is subject to a legal disability by reason of.....

It is further submitted that.....the employer
of the workman has agreed to pay and.....on behalf of the
said workman has agreed to accept half-monthly payments at the rate of
Rs.....for the period of the said temporary disablement. This
agreement is subject to the condition that the amount of the half-monthly pay-
ments may be varied in accordance with the provisions of the said Act on account
of an alteration in the earnings of the said workman during disablement. It is

further stipulated that all rights of commutation under section 7 of the said Act are unaffected by this agreement. It is therefore requested that this memorandum be duly recorded.

Dated.....19 ..

Signature of employer.....

Witness.....

Signature of workman.....

Witness.....

(NOTE.—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.)

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Rs.....



.....Workman.

Dated.....19 ..

The money has been paid and this receipt signed in my presence.

.....Witness

NOTE.—This form may be varied to suit special cases, e.g., injury by occupational disease, etc.

FORM N.

[See rule 49.]

Whereas an agreement to pay compensation is said to have been reached between..... and..... and whereas..... has/have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923, notice is hereby given that the said agreement will be taken into consideration on.....19 .. and that any objections to the registration of the said agreement should be made on that date. In the absence of valid objections it is my intention to proceed to the registration of the agreement.

.....
Commissioner.

Dated.....19 ..

FORM O.

[See rules 49 and 50.]

Take notice that registration of the agreement to pay compensation said to have been reached between you.....and.....
 on the.....19....., has been refused for the following reasons,
 namely:—

.....

.....

.....

.....
 Commissioner.

Dated.....19.....

FORM P.

[See rule 50.]

Whereas an agreement to pay compensation is said to have been reached between.....and.....
 and whereas.....has
 have applied for registration of the
 agreement under section 28 of the Workmen's Compensation Act, 1923, and where-
 as it appears to me that the said agreement ought not to be registered for the
 following reasons, namely:—

.....

.....
 an opportunity will be afforded to you of showing cause on.....19.....
 why the said agreement should be registered. If no adequate cause is shown on
 that date, registration of the agreement will be refused.

.....
 Commissioner.

Dated.....19.....

FORM Q.

[See rule 50.]

Whereas an agreement to pay compensation is said to have been reached between.....and.....
 and whereas.....has/have applied for registration of
 the agreement under section 28 of the Workmen's Compensation Act, 1923, and
 whereas it appears to me that the said agreement ought not to be registered for
 the following reasons, namely:

THE WORKMEN'S COMPENSATION (TRANSFER OF MONEY) RULES, 1935¹

No. L.-3033.—In exercise of the powers conferred by section 35 of the Workmen's Compensation Act, 1923 (VIII of 1923), the Governor General in Council is pleased to make the following rules for the transfer to any part of His Majesty's Dominions or to any other country of money paid to a Commissioner under the Act for the benefit of any person residing or about to reside in such part or country and for the receipt and administration in British India of any money awarded under the law relating to workmen's compensation in any part of His Majesty's dominions or in any other country, and applicable for the benefit of any person residing or about to reside in British India.

RULES.

PART I.—General.

1. (1) These rules may be called the Workmen's Compensation (Transfer of Money) Rules, 1935.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. In these rules, unless there is anything repugnant in the subject or context,—

(a) "the Act" means the Workmen's Compensation Act, 1923.

(b) "authorised officer" means any officer whom the State Government may designate either generally or in respect of any area or class of cases, for the purpose of performing the functions assigned by these rules to the authorised officer.

(bb) "India" in these rules does not include the State of Jammu and Kashmir.

(c) "transferring authority" means any authority in any part of His Majesty's Dominions or in any other country who transfers or causes to be transferred any lump sum awarded under the law relating to workmen's compensation in such part or country and applicable for the benefit of any person residing or about to reside in India.

3. When any sum is transmitted by any authority in India to any other authority in accordance with these rules, the costs of such transmission may be deducted from the sum so transmitted.

¹ See Government of India, Department of Industries and Labour, Notification No. L.-3033, d/- 13-3-1935, as subsequently amended.

4. Money transmitted by any authority in India to any other authority in India in accordance with these rules, shall be transmitted by remittance transfer receipt or by money order.

PART II.—*Transfer of money paid to a Commissioner for the benefit any person residing or about to reside in another country.*

5. When the whole or any part of a lump sum deposited with a Commissioner for payment as compensation under the Act is payable to any person or persons residing or about to reside in any other country, the Commissioner may order the transfer to that country of the sum so payable.

6. When the Commissioner has ordered the transfer of any sum under rule 5, he shall cause to be prepared and shall certify under his hand a memorandum containing a brief statement of the facts of the case, of the orders passed upon it, and of the name and address of each person to whom payment is to be made.

7. If the Commissioner is not himself the authorised officer he shall forward the memorandum in duplicate to the authorised officer and may either remit the sum to be transferred to the authorised officer or retain it and dispose of it in accordance with the directions of the authorised officer. If the Commissioner is himself the authorised officer, he shall proceed as provided in rule 8.

8. The authorised officer, after satisfying himself that the memorandum is complete, shall forward it, and remit or cause to be remitted the sum to which it relates by such means of safe transmission as he may consider convenient to the authority appointed in this behalf for the country to which the sum is to be transferred, or if no such authority has been appointed, to such authority as the State Government may by general or special order direct, and shall at the same time request the authority addressed—

(a) to arrange for payment to be made in accordance with the directions contained in the memorandum; and

(b) to furnish him with a report of the action taken upon the memorandum and return any sum the payment of which is for any reason impossible.

9. (1) The authorised officer shall, if he is not the Commissioner with whom the matter originated, forward to such Commissioner a copy of any report received in response to a request made under rule 8.

(2) Any sum returned in accordance with rule 8 shall be disposed of in accordance with the Act.

PART III.—*Receipt and administration in India of any money awarded under the law relating to workmen's compensation in another country.*

10. (1) The authorised officer shall be the proper authority to receive moneys from transferring authorities.

(2) If any Commissioner or other Government servant, not being the authorised officer, receives any sum from a transferring authority he shall either forward such sum, together with any papers relating thereto, to the authorised officer for disposal or obtain the instructions of the authorised officer as to the disposal of the sum and papers and act in accordance with his instructions.

11. The authorised officer may himself dispose of any sum or part of any sum which he receives or of which he assumes control under rule 10 or may send it or any part of it for disposal to such Commissioner or Commissioners as he considers proper.

12. All sums received from a transferring authority shall be disposed of as far as possible in accordance with the provisions of the Act and the Workmen's Compensation Rules, 1924 :

Provided that the directions, if any, received from the transferring authority as to the manner in which the sum should be administered shall be complied with.

13. (1) The authorised officer shall forward to the transferring authority a report showing how the sum received from him has been disposed of.

(2) Any Commissioner, not being the authorised officer, who has disposed of any part of the sum, shall make a report in duplicate as to the disposal of that part to the authorised officer, and, if the sum was received by him from another such Commissioner acting in accordance with section 21 of the Act, shall forward his report through that Commissioner.

14. Any part of the sum received from the transferring authority which shall have remained undisbursed after the completion of the proceedings shall be returned to the transferring authority by, or under the direction of, the authorised officer.

THE WORKMEN'S COMPENSATION RETURNS.¹

No. L.-1189.—In exercise of the powers conferred by section 16 of the Workmen's Compensation Act, 1923 (VIII of 1923) and in supersession of the Notification of the Government of India in the Department of Industries and Labour, No. L-1189, dated the 26 June 1924, the Governor General in Council is pleased to direct that an annual return in the form set forth in the Schedule hereto annexed shall be furnished by every person employing workmen who are :—

(A) employed in a place which is a factory within the meaning of clause (j) of section 2 of the Factories Act, 1934;²

(B) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923,³ in any mine which is subject to the operation of that Act ;

(C) employed as railway servants otherwise than in a factory or mine ;

(D) employed, otherwise than in a clerical capacity or in a factory or mine, in connection with the operation or maintenance of a tramway as defined in section 3 of the Indian Tramways Act, 1886 ;

(E) employed in any of the following categories but not falling under any of the foregoing heads (A), (B), (C) and (D) :—

(i) otherwise than in a clerical capacity in the service of any Port Trust or Port Commission within the limits of any port subject to the Indian Ports Act, 1908 ;

(ii) in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed ;

(iii) in the service of any fire brigade ;

(iv) otherwise than in a clerical capacity in connection with operations for winning natural petroleum or natural gas ;

(v) otherwise than in a clerical capacity on any estate which is maintained for the purpose of growing cinchona, coffee, rubber, or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed ;

(vi) otherwise than in a clerical capacity in the generating, transforming or supplying of electrical energy ;

(vii) in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures.

¹ See Government of India, Department of Industries and Labour, Notification No. L.—1189, dt.—28-3-35.

² See now cl. (m) of sec. 2 of the Factories Act 63 of 1948.

³ See now cl. (h) of sec. 2 of the Mines Act 35 of 1952.

2. The return, which shall relate to a calendar year shall be furnished on or before the 1st February following the year to which the return relates, and the first return shall relate to the year 1935.

3. The return shall be signed (a) by the employers, or where there is more than one employer by any employer, or (b) by any person directly responsible to the employer or employers for the management of the establishment to which it relates.

4. The return shall be furnished :—

(a) for workmen of all categories except (C) in paragraph 1—

(i) in the Punjab⁴—to the Inspector of Factories ;

(ii) in other provinces⁵—to the Commissioner for Workmen's Compensation for the area within which the said Workmen are normally employed unless the local Government⁶ by notification in the local official Gazette⁷ specifies any other authority to whom the return shall be furnished ;

(b) for workmen falling in category (C) in paragraph 1—to the Secretary to the Railway Board (Railway Department), Government of India.

5. When the local Government⁶ or the Railway Board so direct the return shall be furnished in duplicate.

6. Notwithstanding anything hereinbefore contained, the aforesaid return is not required to be submitted by any employer in respect of compensation paid on account of injuries suffered by his workmen during any period for which his liability under the Act has been insured with a Mutual Indemnity or other Insurance Company or during which he is a member of an association of employers which deals on behalf of its members with claims for compensation under the Act, if such company or association has with the consent of the local Government⁶ undertaken to submit returns as nearly as may be in the form set forth in the Schedule hereto annexed in respect of the employers insured with such company or belonging to such association. Such undertaking shall provide that the said returns shall be submitted not later than the 1st February, or at the discretion of and subject to such conditions as the local Government⁶ may impose, the 1st March following the year to which they relate.

⁴ Read now "Punjab" for "the Punjab".

⁵ Read now "States" for "provinces".

⁶ Read now "State Government" for "local Government".

⁷ Read now "Official Gazette" for "local official Gazette".

SCHEDULE.

WORKMEN'S COMPENSATION.

Returns relating to period from.....to 31st December 19 ..

Province.....	}	(To be omitted in case of railways).
District.....		
Town or village.....		
Post Office.....		
Name of establishment (1)		
Nature of work (2)		
Average numbers (3) employed per day.....		Adults..... Minors.....

		Accidents						Occupational diseases (8)								
		Number of cases of injuries (4) in respect of which final compensation has been paid during the year			Amount of compensation (5) paid					Number of cases of diseases (4) in respect of which final compensation has been paid during the year			Amount of compensation (5) paid			
		Death	Permanent disablement	Temporary disablement	Death	Permanent disablement	Temporary disablement	Nature of disease (9)			Death	Permanent disablement	Temporary disablement (6)	Death	Permanent disablement	Temporary disablement (7)
					Rs.	Rs.	Rs.					Rs.	Rs.	Rs.	Rs.	Rs.
Adults																
Minors																

Dated.....19 ..

(Signed)

(Designation)

(1) In cases where more establishments than one are owned by the same employer, a separate return should be furnished for each establishment. When in any establishment the workmen employed fall in two or more of the distinct categories to which the return relates, [e.g., in the case of a tea estate categories A and B (v)] a separate sheet should be used for the statistics of each category.

(2) Enter the class of establishment according to the process or product, e.g., cotton weaving and spinning factory, coal mine.

(3) Include all employees whether permanent or temporary who would, in the case of accidents, be eligible for compensation under the Act and for whom a return is required to be furnished. Numbers employed should be shown even if there are no payments of compensation to report.

(4) Include only those cases in which the final payment of compensation was made during the year. A deposit with the Commissioner should be treated as a payment by the employer.

(5) Include all compensation paid in respect of the cases mentioned in foot-note 4, whether such compensation was paid during the year or previous to its commencement. Exclude all payments in cases in which the final payment had not been made by the end of the year to which the return relates.

(6) Only such disablements as last for more than seven days should be shown [section 4 (1) D of the Act].

(7) Where the benefit actually allowed (e.g., hospital leave on full pay) is in excess of the compensation admissible under the Act, only the amount of the compensation so admissible should be entered in the return.

(8) Viz., anthrax, lead poisoning, phosphorus poisoning, mercury poisoning, benzene poisoning, chrome ulceration and compressed air illness only.

(9) Enter separately each of the diseases specified in foot-note (8) which resulted in cases in respect of which compensation was paid.

THE WORKING JOURNALISTS (CONDITIONS OF SERVICE) AND MISCELLANEOUS PROVISIONS ACT, 1955.

ACT NO XLV OF 1955¹

[20th December, 1955]

An Act to regulate certain conditions of service of working journalists and other persons employed in newspaper establishments.

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. *Short title and extent.*—(1) This Act may be called the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

¹ For Statement of Objects and Reasons, see Gazette of India, d/- 28-9-55, Pt. II-Sec. 2, p. 493.

2. *Definitions*.—In this Act, unless the context otherwise requires,—

(a) "Board" means Wage Board constituted under section 8;

(b) "newspaper" means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government in this Official Gazette;

(c) "newspaper employee" means any working journalist, and includes any other person employed to do any work in, or in relation to, any newspaper establishment;

(d) "newspaper establishment" means an establishment under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "working journalist" means a person whose principal avocation is that of a journalist and who is employed as such in, or in relation to, any newspaper establishment, and includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copy-taster, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who—

(i) is employed mainly in a managerial or administrative capacity, or

(ii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;

(g) all words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947 (XIV of 1947), shall have the meanings respectively assigned to them in that Act.

CHAPTER II

WORKING JOURNALISTS

3. *Act XIV of 1947 to apply to working journalists*.—(1) The provisions of the Industrial Disputes Act, 1947 (XIV of 1947), as in force for the time being, shall, subject to the modification specified in sub-section (2), apply to, or in relation to working journalists as they apply to, or in relation to, workmen within the meaning of that Act.

(2) Section 25F of the aforesaid Act, in its application to working journalists, shall be construed as if in clause (a) thereof, for the period of notice referred to therein in relation to the retrenchment of a work-

man, the following periods of notice in relation to the retrenchment of a working journalist had been substituted, namely :—

(a) six months, in the case of an editor, and

(b) three months, in the case of any other working journalist.

4. *Special provisions in respect of certain cases of retrenchment.*—

Where at any time between the 14th day of July, 1954, and the 12th day of May, 1955, any working journalist had been retrenched, he shall be entitled to receive from the employer—

(a) wages for one month at the rate to which he was entitled immediately before his retrenchment, unless he had been given one month's notice in writing before such retrenchment; and

(b) compensation which shall be equivalent to fifteen days' average pay for every completed year of service under that employer or any part thereof in excess of six months.

5. *Payment of gratuity.*—(1) Where—

(a) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and—

(i) his services are terminated by the employer in relation to that newspaper establishment for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, or

(ii) he retires from service on reaching the age of superannuation, or

(iii) he voluntarily resigns from service from that newspaper establishments, or

(b) any working journalist dies while he is in service in any newspaper establishment,

the working journalist or, as the case may be, his heirs shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947 (XIV of 1947), be paid, on such termination, retirement, resignation or death, by the employer in relation to that establishment gratuity which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months.

(2) Notwithstanding anything contained in sub-section (1), where a working journalist is employed in any newspaper establishment wherein not more than six working journalists were employed on any day of the twelve months immediately preceding the commencement of this Act, the gratuity payable to a working journalist employed in any such newspaper establishment for any period of service before such commencement shall be equivalent to—

(a) three days' average pay for every completed year of service

or any part thereof in excess of six months, if the period of such past service does not exceed five years ;

(b) five days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds five years but does not exceed ten years ; and

(c) seven days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds ten years.

6. *Hours of work.*—(1) Subject to any rules that may be made under this Act, no working journalist shall be required or allowed to work in any newspaper establishment for more than one hundred forty-four hours during any period of four consecutive weeks, exclusive of the time for meals.

(2) Every working journalist shall be allowed during any period of seven consecutive days rest for a period of not less than twenty-four consecutive hours, the period between 10 P.M. and 6 A.M. being included therein.

Explanation.—For the purposes of this section, 'week' means a period of seven days beginning at mid-night on Saturday.

7. *Leave.*—Without prejudice to such holidays, casual leave or other kinds of leave as may be prescribed, every working journalist shall be entitled to—

(a) earned leave on full wages for not less than one-eleventh of the period spent on duty ;

(b) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service.

8. *Constitution of Wage Board.*—(1) The Central Government may, by notification in the Official Gazette, constitute a Wage Board for fixing rates of wages in respect of working journalists in accordance with the provisions of this Act.

(2) The Board shall consist of an equal number of persons nominated by the Central Government to represent employers in relation to newspaper establishments and working journalists, and an independent person shall be appointed by the Central Government as the Chairman thereof.

9. *Fixation of wages.*—(1) In fixing rates of wages in respect of working journalists, the Board shall have regard to the cost of living, the prevalent rates of wages for comparable employments, the circumstances relating to the newspaper industry in different regions of the country, and to any other circumstances which to the Board may seem relevant.

(2) The Board may fix rates of wages for time work and for piece work.

(3) The decision of the Board fixing rates of wages shall be communicated as soon as practicable to the Central Government.

10. *Publication of decision of Board and its commencement.*—(1) The decision of the Board shall, within a period of one month from the date of its receipt by the Central Government, be published in such manner as the Central Government thinks fit.

(2) The decision of the Board published under sub-section (1) shall come into operation with effect from such date as may be specified in the decision, and where no date is so specified, it shall come into operation on the date of its publication.

11. *Power and procedure of Board.*—Subject to any rules of procedure which may be prescribed, the Board may, for the purpose of fixing rates of wages, exercise the same powers and follow the same procedure as the Industrial Tribunal constituted under the Industrial Disputes Act, 1947 (XIV of 1947), exercises or follows for the purpose of adjudicating an industrial dispute referred to it.

12. *Decision of Board to be binding on all employers.*—The decision of the Board shall be binding on all employers in relation to newspaper establishments and every working journalist shall be entitled to be paid wages at a rate which shall, in no case, be less than the rate of wages fixed by the Board.

13. *Power of Government to fix interim rates of wages.*—(1) Notwithstanding anything contained in this Act, where the Central Government is of opinion that it is necessary so to do, it may, after consultation with the Board, by notification in the Official Gazette, fix interim rates of wages in respect of working journalists.

(2) Any interim rate of wages so fixed shall be binding on all employers in relation to newspaper establishments and every working journalist shall be entitled to be paid wages at a rate which shall, in no case, be less than the interim rate of wages fixed under sub-section (1).

(3) Any interim rates of wages fixed under sub-section (1) shall remain in force until the decision of the Board comes into operation under sub-section (2) of section 10.

CHAPTER III

APPLICATION OF CERTAIN ACTS TO NEWSPAPER EMPLOYEES

14. *Act XX of 1946 to apply to newspaper establishments.*—The provisions of the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), as in force for the time being, shall apply to every newspaper establishment wherein twenty or more newspaper employees are

employed or were employed on any day of the preceding twelve months as if such newspaper establishment were an industrial establishment to which the aforesaid Act has been applied by a notification under subsection (3) of section 1 thereof, and as if a newspaper employee were a workman within the meaning of that Act.

15. *Act XIX of 1952 to apply to newspaper establishments.*—The Employees' Provident Funds Act, 1952 (XIX of 1952), as in force for the time being, shall apply to every newspaper establishment in which twenty or more persons are employed on any day, as if such newspaper establishment were a factory to which the aforesaid Act had been applied by a notification of the Central Government under subsection (3) of section 1 thereof, and as if a newspaper employee were an employee within the meaning of that Act.

CHAPTER IV

MISCELLANEOUS

16. *Effect of laws and agreements inconsistent with this Act.*—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act:

Provided that where under any such award, agreement, contract of service or otherwise, a newspaper employee is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the newspaper employee shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude any newspaper employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

17. *Recovery of money due from an employer.*—Where any money is due to a newspaper employee from an employer under any of the provisions of this Act, whether by way of compensation, gratuity or wages, the newspaper employee may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the money due to him, and if the State Government or such authority as the State Government may specify in this behalf is satisfied that any money is so due, it shall issue a certificate for that amount

to the collector and the collector shall proceed to recover that amount in the same manner as an arrear of land revenue.

18. *Penalty.*—(1) If an employer contravenes the provisions of section 6, he shall be punishable with fine which may extend to two hundred rupees.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this section.

(3) No court shall take cognizance of an offence under this section, unless the complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

19. *Indemnity.*—No suit, prosecution or other legal proceeding shall lie against the Chairman or any other member of the Board for anything which is in good faith done or intended to be done.

20. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) payment of gratuity to working journalists ;

(b) hours of work of working journalists ;

(c) holidays, earned leave, leave on medical certificate, casual leave or any other kind of leave admissible to working journalists ;

(d) the procedure to be followed by the Board in fixing rates of wages ;

(e) the manner in which the decision of the Board may be published ;

(f) any other matter which has to be, or may be prescribed.

(3) All rules made under this section shall as soon as practicable after they are made, be laid before both Houses of Parliament.

21. *Repeal of Act I of 1955.*—The Working Journalists (Industrial Disputes) Act, 1955 (I of 1955) is hereby repealed.



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